

# TRANSITIONING TO A COLLABORATIVE LEGAL WRITING PROGRAM: MANAGEMENT PRINCIPLES TO APPLY WHEN “TAKE ME TO YOUR LEADER” IS NO LONGER APPLICABLE

Jennifer Sheppard\*

## I. Introduction

Imagine that a friend invites you to go to a concert of the Orpheus Chamber Orchestra, an orchestra with which you are unfamiliar. You agree. On the day of the concert, you and your host go to the venue and take your seats. From behind the curtain you can hear the musicians warming up their instruments. You hear the hum of the audience and feel the excitement in the air. The curtains pull back, the lights dim, and a hush goes over the crowd. You notice that there is no conductor standing in front of the orchestra, and think it odd, but figure that he or she will walk in from side stage at any moment. Instead, one of the members of the orchestra, a young woman with a violin, gets up and walks to the front of the stage. She welcomes the audience, announces the musical selection for the night, and provides a brief historical background about the piece, then takes her seat. She raises her violin, puts her bow on the strings, and the entire orchestra begins to play as one! You watch in amazement as the orchestra flawlessly plays sweet, beautifully haunting music throughout the entire first half of the concert. At intermission, you turn to your friend and exclaim, “How do they play like that without a conductor?!”

The truth is, you would not be the first person to ask how the Orpheus Chamber Orchestra (“Orpheus”), a conductor-less orchestra, produces such beautiful music. Orpheus is a classical music chamber orchestra that is widely considered one of the world’s foremost

---

\* Jennifer Sheppard is an Assistant Professor of Law at the United States Air Force Academy (“USAFA”). Professor Sheppard earned her B.A. from Ohio University and her J.D. from Capital University Law School. In addition to teaching at West Virginia University Law School and Appalachian School of Law, Professor Sheppard taught legal writing at Mercer University School of Law for eleven years before going to teach in the Legal Studies Department at USAFA. She would like to thank Professors Linda Berger, Linda Jellum, and Karen Sneddon for their assistance and insightful comments on this article. She would also like to thank Linda Edwards for introducing her to the Orpheus Chamber Orchestra and giving her the idea for this article.

orchestras.<sup>1</sup> Orpheus has been nominated three times for Grammy awards, winning in 2000 for Best Small Ensemble Performance.<sup>2</sup>

So how does Orpheus do it? Because chamber music was the inspiration for Orpheus's founders, they knew from the beginning that they did not want a conductor, that they wanted the leadership of the orchestra to be shared by the musicians.<sup>3</sup> The difference between chamber music and orchestral music is one of size or scale.<sup>4</sup> A chamber ensemble generally consists of at least two musicians and no more than ten musicians.<sup>5</sup> Orchestral music, on the other hand, is for larger groups of musicians playing thirty or more different instruments, including strings, bass, woodwinds, and percussion.<sup>6</sup> While in traditional orchestras power and authority is ceded to the conductor and soloists,<sup>7</sup> chamber music is "grounded in democracy,"

---

<sup>1</sup> Orpheus Chamber Orchestra, *About Us: Mission and Process*, Orpheus, <http://orpheusnyc.org/about-orpheus> (last visited July 15, 2019) [hereinafter "*Mission and Process*"].

<sup>2</sup> *Artist: Orpheus Chamber Orch.*, RECORDING ACADEMY GRAMMY AWARDS, <https://www.grammy.com/grammys/artists/orpheus-chamber-orch> (last visited Nov. 17, 2019).

<sup>3</sup> HARVEY SEIFTER & PETER ECONOMY, LEADERSHIP ENSEMBLE: LESSONS IN COLLABORATIVE MANAGEMENT FROM THE WORLD'S ONLY CONDUCTOR-LESS ORCHESTRA 23 (2001).

<sup>4</sup> See *Chamber Music and Orchestral Music*, SHINE MUSIC SCHOOL, <http://www.shinemusic.com.au/musicresources/Chamber-and-Orchestral-Music.aspx> (last visited on Dec. 29, 2019) (contrasting chamber music with orchestral music).

<sup>5</sup> *Id.*; Christina Bradford, *Chamber Music*, <https://www.oxfordmusiconline.com/grovemusic/view/10.1093/gmo/9781561592630.001.0001/omo-9781561592630-e-0000005379> (last visited on Dec. 29, 2019). Examples of chamber ensembles include sonatas, trios, or quartets for musical instruments such as strings or pianos. *Id.*; Christina Bashford, *Histriography and Invisible Musics: Domestic Chamber Music in Nineteenth-Century Britain*, 63 J. of the Amer. Musical Soc. at 292 (Summer 2010).

<sup>6</sup> *Chamber Music and Orchestral Music*, *supra* note 5.

<sup>7</sup> SEIFTER & ECONOMY, *supra* note 3, at 22. According to Seifter and Economy, solo performers and conductors are the "stars," while orchestral musicians are "anonymous instrumentalists." *Id.* Solo performers

have virtually unrestricted power over their own performances, and they exert a substantial amount of control over other musicians' work as well. . . . Orchestral musicians, on the other hand, are expected to follow direction as quickly, efficiently, and unobtrusively as

a world “where power along with responsibility, leadership, and motivation lie entirely in the hands of the [musicians] doing the work.”<sup>8</sup> In chamber ensembles there is no conductor; rather each musician brings his or her “own ideas, energies, passions and creativity to [the] music-making.”<sup>9</sup> Chamber musicians collaborate as equals with each other and engage in self-reflection and evaluation to improve their performance.<sup>10</sup> Each musician has to balance the need for independent thinking with the need for teamwork.<sup>11</sup> They each “take personal responsibility for their performances while . . . trust[ing] in the other musicians to determine the quality and character of the group’s finished product.”<sup>12</sup> Consequently, “[c]hamber musicians experience feelings of collegiality, shared purpose, and decision-making authority,” which are “powerful motivational forces.”<sup>13</sup>

Giving the power to the musicians required a new decentralized model of leadership rather than the rigid traditional leadership hierarchy employed by some orchestras with conductors.<sup>14</sup> Orpheus took the “chamber music ideal” and applied it to the experience of playing in an orchestra.<sup>15</sup> Because Orpheus does not rely on the leadership of a conductor, it must “rely on the skills, abilities, and passionate commitment of its members” to make beautiful music.<sup>16</sup> Consequently, Orpheus is a self-governing organization<sup>17</sup> that uses “a unique system of collaborative leadership that invites every member of the orchestra to participate in leadership positions.”<sup>18</sup> In fact, the

---

possible. Technical proficiency and reliability are the most important factors in job performance.

*Id.* at 22-23.

<sup>8</sup> *Id.* at 23.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 23-24.

<sup>11</sup> *Id.*

<sup>12</sup> SEIFTER & ECONOMY, *supra* note 3, at 23.

<sup>13</sup> *Id.* at 24.

<sup>14</sup> *Id.* at 3.

<sup>15</sup> *Id.* at 24.

<sup>16</sup> *Id.* at 3.

<sup>17</sup> *History*, ORPHEUS, <http://orpheusnyc.org/about-orpheus/history/> (last visited Nov. 14, 2019) [hereinafter *History*].

<sup>18</sup> Harvey Seifter, *The Conductor-less Orchestra*, LEADER TO LEADER, Summer 2001, at 2,

most fundamental characteristic of Orpheus is “the tremendous power and authority” it gives to the musicians<sup>19</sup>—it puts the “power, responsibility, leadership, and motivation . . . entirely in [their] hands.”<sup>20</sup>

The unique system of collaborative leadership that Orpheus developed, which it has trademarked as the “Orpheus Process®,”<sup>21</sup> has been so successful that members of the orchestra now teach it to students and professionals, both in the private and nonprofit business sectors.<sup>22</sup> “The Orpheus Process has been studied by organizational experts at Harvard Business School, Stanford Graduate School of Business, and at several business schools in Europe.”<sup>23</sup> Moreover, the Orpheus Process “has been the focus of . . . leadership seminars at IBM, Morgan Stanley, and Memorial Sloan-Kettering Hospital, among others.”<sup>24</sup>

Upon learning of Orpheus’s successes and how its system of collaborative leadership had been adapted to other business organizations, it seemed to me that this model of collaborative leadership should be adaptable to leadership in higher education,<sup>25</sup> particularly to law schools transitioning from directed legal writing programs to collaborative programs. After all, orchestras, like universities, are “information-based organizations” staffed primarily with knowledge workers,<sup>26</sup> or those whose job it is “to think for a

---

[https://www.seifterassociates.com/uploads/4/0/5/9/4059165/drucker\\_foundation\\_-\\_the\\_conductorless\\_orchestra.pdf](https://www.seifterassociates.com/uploads/4/0/5/9/4059165/drucker_foundation_-_the_conductorless_orchestra.pdf).

<sup>19</sup> SEIFTER & ECONOMY, *supra* note 3, at 13.

<sup>20</sup> *Id.* at 3.

<sup>21</sup> *History*, *supra* note 17; Susan G. Bowen & Peter Fretwell, *Leading from Within: The Orpheus Model*, THE CHAIR ACADEMY, [http://www.chairacademy.com/conference/2016/conpap/bowen\\_orpheus.pdf](http://www.chairacademy.com/conference/2016/conpap/bowen_orpheus.pdf) (last visited July 15, 2019), at 5.

<sup>22</sup> *Engage*, ORPHEUS, <http://orpheusnyc.org/engage> (last visited July 15, 2019) [hereinafter *Engage*]; Bowen & Fretwell, *supra* note 22, at 5. Orpheus shares the Orpheus Process with students and educational institutions through several educational and engagement programs, including Access Orpheus-NYC, the Orpheus Music Academy, the Orpheus Leadership Institute, and With Music in Mind. *History*, *supra* note 18.

<sup>23</sup> Bowen & Fretwell, *supra* note 22, at 5.

<sup>24</sup> *History*, *supra* note 18.

<sup>25</sup> Bowen & Fretwell, *supra* note 21, at 5. Susan G. Bowen and Peter Fretwell contend that the Orpheus model offers a lot of guidance to those who aspire to leadership in academia. *Id.* at 4.

<sup>26</sup> SEIFTER & ECONOMY, *supra* note 3, at 9.

living.”<sup>27</sup> And while law professors and musicians have a lot in common as knowledge workers,<sup>28</sup> legal writing programs with a director and traditional orchestras have one more characteristic in common—a single person who is the focal point for the organization, closely manages it, and makes decisions regarding it.<sup>29</sup>

Despite the fact that many law schools have abolished the director position and transitioned to a more collaborative management model for their legal writing programs, it does not appear that their legal writing faculties or their administrations thought to research business management techniques that might have facilitated that process.<sup>30</sup> Surely business management techniques would help a legal writing program to transition more smoothly from a hierarchical model of leadership to a more collaborative one and assist the law school in avoiding common quagmires that an organization may encounter during such a process.

Given the similarity of traditional orchestras and director-centric legal writing programs, law schools transitioning to a collaborative legal writing program can learn a great deal from Orpheus about how to make such a transition smooth. To that extent, this article will examine how law schools whose legal writing programs are transitioning to a collaborative program from a director- or permanent coordinator-led program can use the Orpheus Process to ensure a smooth changeover and avoid problems with the transition of power and authority. Part I of this article will briefly review the history of legal writing programs in the United States, including the trend toward collaborative programs rather than director-led programs. Part II will examine the Orpheus Process itself and identify

---

<sup>27</sup> THOMAS H. DAVENPORT, THINKING FOR A LIVING: HOW TO GET BETTER PERFORMANCE AND RESULTS FROM KNOWLEDGE WORKERS 3 (2005).

<sup>28</sup> According to Susan G. Bowen and Peter Fretwell, “A simple description of Orpheus musicians can also fit academia: highly skilled professionals at the top of their profession with strong opinions based on deep expertise and personal bias. Bowen & Fretwell, *supra* note 21, at 4.

<sup>29</sup> See SEIFTER & ECONOMY, *supra* note 3, at 9.

<sup>30</sup> Mercer University School of Law, where I taught legal writing, did not think to do this when it transitioned from a coordinator-led model to a collaborative one. Nor does the thought appear to have occurred to other law schools. While several of the presentations at the 2013 Association of Legal Writing Directors Biennial Conference addressed how different law schools had transitioned to collaborative programs, to my knowledge, none of the presenters spoke on business management techniques that they used to aid in that transition. Nor have I seen any law review articles on this issue.

and explain the core principles upon which this system of collaborative leadership is based. Part III will examine each of the Orpheus Process's core principles in the context of a legal writing program that is transitioning from a directed model to a collaborative one. With regard to each core principle, this article will identify the steps that legal writing programs should take, considerations that they will need to mull over, pitfalls that they might encounter, and potential ways to avoid those pitfalls altogether or to overcome them when they are unavoidable.

## **II. Background**

### **A. A Very Brief History of Legal Writing**

When law schools first began offering legal writing courses, they were often taught as part of a program,<sup>31</sup> where faculty had little autonomy.<sup>32</sup> Uniformity ruled the day, with each section using the same syllabus, text books, writing assignments, citation system, and daily lesson plans.<sup>33</sup> Often this uniformity was born of necessity—the early legal writing programs were often staffed primarily with faculty on short-term contracts, part-time faculty, adjuncts, or third year law students.<sup>34</sup> Such professors had neither the time nor the job security to develop the legal writing program; consequently, many law schools used directors to manage the legal writing program.<sup>35</sup> These directors were generally full-time employees with numerous administrative and supervisory responsibilities (as well as teaching duties). The director was typically responsible for the success of the legal writing program.

---

<sup>31</sup> Suzanne E. Rowe, *From Polaroid Snapshot to 3-D Movie: Updating the Annual Survey of Legal Writing Programs*, 16 LEG. WRITING: J. LEG. WRITING INST. 565, 572 (2010).

<sup>32</sup> Jennifer Jolly-Ryan, *Coordinating a Legal Writing Program with the Help of a Course Webpage: Help for Reluctant Leaders and the Technology-Challenged Professor*, 22 QUINNIPIAC L. REV. 479, 482 n. 12 (2004). Still today, few legal writing faculty experience the same degree of autonomy and academic freedom valued and enjoyed by other law school faculty.

<sup>33</sup> *Id.* at 482 n.12; see Maureen Arrigo-Ward, *How to Please Most of the People Most of the Time: Directing (or Teaching In) a First-Year Legal Writing Program*, 29 VAL. U. L. REV. 557, 561-74 (1995).

<sup>34</sup> Jolly-Ryan, *supra* note 32, at 482 n.12.

<sup>35</sup> *Id.*

However, as legal writing as a discipline matured, it became more integrated into the law school curriculum and was less segregated into programs.<sup>36</sup> Law schools began “mov[ing] away from *programs* for teaching legal writing courses” and began “offering legal writing as a series of courses—a legal writing curriculum—not tied to a program,”<sup>37</sup> much like business law courses or criminal law and procedure courses. This change was, in large part, attributable to the fact that law schools had begun hiring legal writing faculty in full-time positions, both in long-term contract and tenure-track positions.<sup>38</sup> These full-time legal writing faculty members considered legal writing a long-term career choice;<sup>39</sup> they were not only teaching their courses but were also producing scholarship, serving in a variety of capacities within the law school, and serving in leadership positions in national legal writing and other academic organizations. “Today, the vast majority of legal writing professors nationwide . . . [are] full-time faculty.”<sup>40</sup> This professionalizing of legal writing faculty caused the administration to develop greater trust in the competence of the faculty and to require less uniformity—the more experienced the professors became, the less uniformity was demanded of them.

Another result of this decreased uniformity and increased trust in the competence of the legal writing faculty is a move away from the “director-centric program”<sup>41</sup> to a collaborative management model<sup>42</sup>

---

<sup>36</sup> Rowe, *supra* note 31, at 572-73.

<sup>37</sup> *Id.* at 572 (emphasis in the original).

<sup>38</sup> Here, I would like to give credit to all those who lobbied the ABA for standards encouraging long-term contracts and to those who lobbied their law schools for job security and long-term contracts for their colleagues and themselves. The shift away from hiring legal writing faculty in part-time positions with one-year contracts was the result of years and years of hard work and unending dedication by legal writing faculty who demanded that law schools hire legal writing faculty in full-time positions both through exerting pressure on the ABA and their individual law schools.

<sup>39</sup> Rowe, *supra* note 32, at 570-71.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 570.

<sup>42</sup> Professor Terrill Pollman coined the term “autonomous” to describe legal writing faculty at schools without a director. Rowe, *supra* note 32, at 571 n.32. Autonomous has a more positive connotation than “directorless,” which brings to mind terms such as directionless or rudderless. Wanda M. Temm, Lyn J. Entrikin, Teri McMurtry-Chubb, & Lisa Cannon, *The Triumphs and Pitfalls of Going Director-Less*, Presentation at the Association of Legal

where pedagogical and/or administrative decisions are made cooperatively by each member of the legal writing faculty.<sup>43</sup> In a collaborative management model, administrative tasks are either given to a coordinator (whether in a permanent or rotating position), divided among the legal writing faculty, or assigned to an administrative assistant.<sup>44</sup> Moreover, pedagogical decision-making is shared by all members of the legal writing faculty. Several law schools have switched from a director model to a coordinator model or a completely collaborative model where there is no coordinator.<sup>45</sup> The number of law schools that have switched to a collaborative faculty has steadily increased over the years. While in 1999, only four law schools reported to the Legal Writing Institute/Association of Legal Writing Directors (LWI/ALWD) survey that they had an autonomous program, by 2009 twenty-five law schools reported that they had such a program.<sup>46</sup> That number rose to thirty-five law schools by 2012,<sup>47</sup> and by 2018, fifty-eight law schools reported that they had a collaborative program.<sup>48</sup>

---

Writing Directors Conference (June 27, 2013). However, I am electing to use the term “collaborative” to describe programs without a director. The scholarship on leadership models uses this term when describing cooperative management models. Moreover, the term “autonomous” suggests that the legal writing faculty are operating in a completely individualistic manner without working as part of a team.

<sup>43</sup> The shift to a collaborative management model is generally not instigated by the law school administration but by the legal writing faculty itself. In law schools with tenured and tenure-track legal writing faculty, the shift to a collaborative program often occurs when a significant number of the faculty have earned tenure. On the other hand, when a law school converts legal writing positions from non-tenure-track to tenure-track, the decision to collaborate often accompanies that conversion. In law schools without tenure, the collaboration decision often occurs when sufficient professors have accumulated enough experience that they demand both pedagogical and administrative flexibility.

<sup>44</sup> See Rowe, *supra* note 31, at 572 n.39.

<sup>45</sup> *Id.* at 571.

<sup>46</sup> *Id.* at 570 n.27, 571 n.33.

<sup>47</sup> Susan Bay, Rebecca Blemberg, Jacob Carpenter, Melissa Greipp, Alison Julien & Lisa Mazzie, *Directorless But Not Without Direction: The Workings of Marquette Law School’s Director- and Coordinator-Free Legal Writing Program*, Association of Legal Writing Directors Conference (June 27, 2013).

<sup>48</sup> *Status-Related Advocacy: Law Schools with Autonomous LRW Programs*, LEGAL WRITING INSTITUTE,

These dual trends away from legal writing “programs” and away from a director-centric management model are “likely to continue, as shown by the [ongoing] decrease in uniformity among sections of legal writing and by the [ongoing] increase in status and job security of those teaching legal writing.”<sup>49</sup> The move away from directed programs is good for law schools and legal writing faculty alike. It is good for law schools because they no longer differentiate (or differentiate less) between faculty based on status or subject matter area of expertise. The legal writing faculty members are more engaged in their jobs and with their students and are more involved in the law school overall. Each of the legal writing faculty members, not just the director, is responsible for the success of the legal writing curriculum. It is good for legal writing faculty because, like their colleagues teaching other subjects, they have a greater degree of autonomy to design their courses and to “pursue their scholarship with full academic freedom.”<sup>50</sup> “Like law professors teaching any other subject, they are trusted to not need a director.”<sup>51</sup> It is a win-win for all involved, from the law school to the legal writing faculty to the students.

But, while moving to a more collaborative management style for the legal writing faculty is beneficial to all involved, it does not address the issue of *how best* to transition from a directed to a collaborative management style. What can the administration and the legal writing faculty do to ensure a smooth and efficient transition of power and authority from one person to many? What can they do to facilitate the shift from the traditional model of leadership hierarchy to a collaborative one? This is where the Orpheus Process can come into play.

---

<https://www.lwionline.org/resources/status-related-advocacy> (last visited Nov. 17 2019).

<sup>49</sup> Rowe, *supra* note 31, at 572. In fact, many legal writing faculty hope that directed legal writing programs will disappear completely. *Id.* at 570.

<sup>50</sup> *Id.* at 571 n.32; see also Susan P. Liemer & Jan M. Levine, *Legal Research and Writing: What Schools Are Doing and Who Is Doing the Teaching (Three Years Later)*, 9 SCRIBES J. LEG. WRITING 113, 122 (2003-2004).

<sup>51</sup> Liemer & Levine, *supra* note 50, at 122.

## B. The Orpheus Chamber Orchestra

The Orpheus Chamber Orchestra is a conductor-less orchestra and is widely considered one of the world's most respected orchestras.<sup>52</sup> Though Orpheus is often described as a "leaderless" orchestra,<sup>53</sup> it is "most definitely not an organization without leadership."<sup>54</sup> While the first thing one notices about Orpheus is the absence of a conductor waving a baton at the front of the stage,<sup>55</sup> beautiful "music does not flow from the conductor's baton" like magic from a fairy godmother's wand.<sup>56</sup> Rather, beautiful music "flows instead from the hearts and minds and musical souls of the players who are bringing the composer's vision to the audience. At Orpheus, there are twenty-seven hearts and minds and souls, every one of them a leader."<sup>57</sup> Thus, while Orpheus is a conductor-less orchestra,<sup>58</sup> this does not mean that Orpheus has "jettisoned authority" or that a power vacuum exists.<sup>59</sup> The orchestra realizes that "[p]ower *needs* to exist."<sup>60</sup> It has simply diffused "the conductor's traditional power and authority among" all the musicians.<sup>61</sup> Giving all members an equal share of the conductor's authority and power allows Orpheus "to draw on the expertise and leadership ability of [all its] highly skilled musicians."<sup>62</sup>

---

<sup>52</sup> See *Orpheus Chamber Orchestra*, *supra* note 1; *About Orpheus*, *supra* note 1.

<sup>53</sup> SEIFTER & ECONOMY, *supra* note 3, at xi.

<sup>54</sup> *Id.* at 4.

<sup>55</sup> *Id.* at xi.

<sup>56</sup> *Id.* at xiii (emphasis omitted).

<sup>57</sup> *Id.* Orpheus comprises twenty-seven permanent musicians who cannot be fired and a number of substitute players who fill in where necessary. Seifter, *supra* note 19, at 1.

<sup>58</sup> SEIFTER & ECONOMY, *supra* note 3, *passim*.

<sup>59</sup> *Id.* at 25.

<sup>60</sup> *Id.* Members of Orpheus would be "the first to tell you: 'Every piece of music requires leadership.'" John Lubans Jr., *The Invisible Leader: Lessons for Leaders from the Orpheus Chamber Orchestra*, OD PRACTITIONER, 2006, at 5, <https://www.lubans.org/docs/odpissuesdownload-visitors.pdf>.

<sup>61</sup> SEIFTER & ECONOMY, *supra* note 3, at 25.

<sup>62</sup> *Id.* While each musician member at Orpheus is given an equal share of the conductor's power and authority, "Orpheus musicians recognize that there are differences among players—in their experiences, in their musical perspectives, and in their special talents. . . . At Orpheus [a musician's] say is determined by what [he or she has] to offer to the music." *Id.* at xiii.

To do this, a new, more collaborative leadership model was needed, one that took the power and authority traditionally given to a conductor under the hierarchical model of leadership and distributed them equally among the musicians.<sup>63</sup> Due to the absence of a conductor and the leadership that he or she provides, Orpheus has to rely on the skills, abilities, and commitment of each of its musicians.<sup>64</sup> Each musician must “help decide about musical interpretations. Each one must take part of the responsibility for ensuring that musical entrances are together, that themes are passed smoothly from section to section, and that the composer’s vision for a piece is realized beautifully and musically.”<sup>65</sup> Thus, Orpheus is a self-governing organization<sup>66</sup>: its collaborative leadership model invites each member of the orchestra to participate in leadership positions, either leading the group in rehearsal and performance as concertmaster, or by leading one of the orchestra’s many different formal or informal teams.”<sup>67</sup> “[D]ifferent individuals rise to leadership roles based on the orchestra’s needs and the demands of each piece of music.”<sup>68</sup> By putting the power, responsibility, leadership, and motivation entirely in the hands of the musicians, Orpheus gives them tremendous power and authority over not only the music side of the orchestra but also over the management of the business side of the orchestra.<sup>69</sup>

### **C. Adapting the Orpheus Process to Higher Education, Specifically to Legal Writing Programs Transitioning from a Directed Program to a Collaborative Management Model**

Orpheus’s unique system of collaborative leadership, trademarked as the “Orpheus Process®,”<sup>70</sup> should be adaptable to

---

<sup>63</sup> *Id.* at 3.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at xi.

<sup>66</sup> *History*, *supra* note 17.

<sup>67</sup> Seifter, *supra* note 18, at 2.

<sup>68</sup> SEIFTER & ECONOMY, *supra* note 3, at 4.

<sup>69</sup> *Id.* at 3.

<sup>70</sup> *History*, *supra* note 17; Bowen & Fretwell, *supra* note 21, at 5.

any organization that is staffed primarily with knowledge workers.<sup>71</sup> Orchestras are “information-based organizations” staffed primarily with knowledge workers.<sup>72</sup> A knowledge worker’s job is “to think for a living.”<sup>73</sup> They are “employees who apply theoretical and analytical knowledge, acquired through formal education, to develop new products or services”<sup>74</sup> or to define and solve problems.<sup>75</sup> Knowledge workers “make decisions rather than physical items and work with ideas rather than with objects.”<sup>76</sup> “They invent new products, develop new strategies, [conceive new designs, devise new models for doing business,] lead negotiations, and help [organizations] keep ahead of

---

<sup>71</sup> The Orpheus Process and its core principles “should not be limited to the music industry; in fact every type of organization can get inspired by Orpheus’ collective leadership style to benefit from an increase in performance and innovation due to a more enjoyable and collective work environment.” Edith Luc, *The 8 Leadership Principles of Orpheus, the Conductor-less Chamber Orchestra*, LE BLOGUE D’EDITH LUC (Dec. 11, 2011), [bogue.edithluc.com/the-8-leadership-principles-of-orpheus-the-conductor-less-chamber-orchestra/?lang=en](http://bogue.edithluc.com/the-8-leadership-principles-of-orpheus-the-conductor-less-chamber-orchestra/?lang=en)

<sup>72</sup> SEIFTER & ECONOMY, *supra* note 3, at 9; Siefert, *supra* note 19, at 39. Knowledge workers are also referred to as “knowledge entrepreneurs, free agents, or human capital.” William W. Prince, *Knowledge Workers*, REFERENCE FOR BUSINESS, <http://www.referenceforbusiness.com/management/Int-Loc/Knowledge-Workers.html#ixzz5GWxGrhYD> (last visited Nov. 18, 2019). The main capital of a knowledge worker is information. *Id.*; see DAVENPORT, *supra* note 28, at 12. Knowledge work is characterized by creativity and autonomy. Prince, *supra* note 73.

<sup>73</sup> DAVENPORT, *supra* note 28, at 3.

<sup>74</sup> Prince, *supra* note 72. “Knowledge workers are those who acquire, manipulate, interpret, and apply information in order to perform multidisciplinary, complex and unpredictable work. They analyze information and apply expertise in a variety of areas to solve problems, generate ideas, or create new products and services.” *Id.*

<sup>75</sup> Jason Coomer, Willie Buehler, & Bob Binder, *The Attorney as Knowledge Worker*, 68 TEX. B.J. 794, 794 (2005). Knowledge workers “process[] existing information to create new information that could be used to define and solve problems.” *Id.* They “produce the information . . ., extract meaning from it, and take action on it.” DAVENPORT, *supra* note 28, at 4.

<sup>76</sup> *Id.* Knowledge workers “produce and manipulate knowledge or information rather than things or services.” Catherine L. Fisk, *The Kenneth M. Piper Lecture: Knowledge Work: New Metaphors for the New Economy*, 80 CHI.-KENT L. REV. 839, 860 (2005).

‘their] competitors.’<sup>77</sup> Their work relies on their mental capabilities rather than their physical muscles and requires them to use different methods and techniques to solve problems.<sup>78</sup>

In addition to orchestras, universities are also information-based organizations staffed primarily with knowledge workers.<sup>79</sup> Academic professionals, lawyers, and teachers are examples of knowledge workers,<sup>80</sup> as are musicians in orchestras.

Moreover, while law professors and musicians are both knowledge workers,<sup>81</sup> legal writing programs with a director and conductor-led orchestras have one more characteristic in common—a single person who closely manages them and makes decisions concerning the organization.<sup>82</sup> Both a legal writing director and a conductor “are expected to exact uniformity from [members of a] group[], down to the smallest details.”<sup>83</sup> Just as a director of a legal writing program may require uniformity among sections with regard to syllabi, text books, writing assignments, and daily lesson plans, a conductor exacts uniformity by selecting the music to be played as well as the musicians to play it; controlling how the music will sound by making decisions about the tempo, phrasing, volume, and balance;

---

<sup>77</sup> MindTools.com, *Managing Knowledge Workers: Getting the Most from Them*, [https://www.mindtools.com/pages/article/newTMM\\_45.htm](https://www.mindtools.com/pages/article/newTMM_45.htm).

<sup>78</sup> *Id.* Knowledge workers have the autonomy to decide what work methods must be used to complete their tasks. *Id.*

<sup>79</sup> *E.g.*, SEIFTER & ECONOMY, *supra* note 3, at 9; see DAVENPORT, *supra* note 28, at 43; Margaret Rouse, *Knowledge Workers*, TECHTARGET, <https://searchcrm.techtargt.com/definition/knowledge-worker> (last visited Nov. 18, 2019).

<sup>80</sup> Prince, *supra* note 73; Rouse, *supra* note 80. Lawyers are knowledge workers because they “have specialized knowledge through their training in the law that they apply to their practice; and few, if any, create a physical product other than paper or documents.” Coomer et al., *supra* note 76, at 794. Willie Buehler, and Bob Binder, *The Attorney as Knowledge Worker*, TX. BAR J. Vol. 68, No. 9 794, 794 (Oct. 2005).

<sup>81</sup> See DAVENPORT, *supra* note 75, at 3. According to Susan G. Bowen and Peter Fretwell, “A simple description of Orpheus musicians can also fit academia: highly skilled professionals at the top of their profession with strong opinions based on deep expertise and personal bias. Bowen & Fretwell, *supra* note 21, at 4.

<sup>82</sup> SEIFTER & ECONOMY, *supra* note 3, at 9.

<sup>83</sup> *Id.*

and leading the orchestra in rehearsals and during performances.<sup>84</sup> Moreover, both a director of a legal writing program and a conductor are the official face of their organization. Not only do they make decisions for the group, but they tend to receive credit for the success or failure of the group's performance.

Given the similarity of traditional orchestras and director-centric legal writing programs, law schools transitioning to a collaborative legal writing program can learn a great deal from Orpheus about how to ensure a smooth changeover and avoid problems with the transition of power and authority. Law schools can gain insight into, among other things, how "to more fully engage the full complement of ideas, talents, and energy of" all of their legal writing faculty, how to foster a sense of collective purpose, and how to promote "lifelong learning and growth of individual members."<sup>85</sup>

### III. The Orpheus Process

The Orpheus Process, the model of distributed leadership developed by the Orpheus Chamber Orchestra, is built upon eight main principles.<sup>86</sup> These Orpheus Principles,<sup>87</sup> or core principles "designed to consistently bring out the best in each member of [the] team,"<sup>88</sup> are as follows:

- 1) Put power in the hands of the people doing the work;
- 2) Encourage individual responsibility for product and quality;
- 3) Create clarity of roles;
- 4) Foster horizontal teamwork;
- 5) Share and rotate leadership;
- 6) Learn to listen, learn to talk;
- 7) Seek consensus; and
- 8) Dedicate passionately to your mission.<sup>89</sup>

---

<sup>84</sup> *Id.*

<sup>85</sup> *Id.* at xiv. Chamber ensembles, which are the inspiration for Orpheus's democratic process and collaborative management model, "serve as the perfect analogue" for self-managing teams. *Id.* at 23, 24. The "feelings of collegiality, shared purpose and decision-making authority [experienced by musicians playing in chamber music ensembles] are powerful motivational forces that have broad applicability to the challenge of managing today's knowledge workers." *Id.* at 24.

<sup>86</sup> *Id.* at 14.

<sup>87</sup> SEIFTER & ECONOMY, *supra* note 3, at 14.

<sup>88</sup> *Id.* at 14-15.

<sup>89</sup> *Id.* at 15-16.

Each of these core principles will be examined in turn.

### A. Put Power in the Hands of the People Doing the Work

This principle, putting power in the hands of the people doing the work, is designed to give employees the authority to make decisions that have a truly meaningful impact on the organization.<sup>90</sup> According to Orpheus, “[t]he benefits of putting power in the hands of the people doing the work” include improving employee morale,<sup>91</sup> increasing employee engagement in their jobs, and decreasing employee absenteeism and rates of turnover, and producing “[n]ew ideas, fresh energy, and increased employee commitment to achieving the [organization’s] goals.”<sup>92</sup> Empowering employees with true authority

---

<sup>90</sup> *Id.* at 15. Though many organizations claim that they are empowering their employees with true authority and responsibility, the reality is very different. *Id.* at 8; Seifter, *supra* note 19, at 5; Jeramy Townsley, *Distributed Leadership: The Orpheus Process*, SOCIOLOGIST IN FALL CREEK PLACE (Nov. 12, 2011), <http://www.fallcreekrenovation.blogspot.com/2011/distributed-leadership-orpheus-process.html>. “According to a Gallup poll of 1,200 U.S. workers, while 66 percent of respondents reported that their managers asked them to get involved in decision making within their organizations, only 14 percent of these same workers reported that they felt they had actually been given real authority.” Seifter, *supra* note 19, at 3. Moreover, Seifter and Economy explained that

[a] survey of self-managing work teams found that in the overwhelming majority of cases, management still makes the most important decisions for the teams, including setting employee salaries, determining raises, hiring, firing, selecting team leaders, and designating overall team goals. Team members, who were repeatedly told by their bosses that they were being empowered to be leaders, were left with relatively trivial decisions regarding team process and function, such as when and where the team would meet and who would be responsible for taking notes.

SEIFTER & ECONOMY, *supra* note 3, at 8.

<sup>91</sup> According to Orpheus, employee morale improves as a result of increased management trust in the workforce. SEIFTER & ECONOMY, *supra* note 3, at 21.

<sup>92</sup> *Id.* According to Orpheus, employee morale improves as a result of increased management trust in the workforce. *Id.* Some additional benefits of putting the power in the hands of those doing the work, or “empower[ing]

and responsibility to make meaningful decisions that impact the organization allows an organization to “maximize the talents of highly skilled individuals throughout [the] organization, and it improves [their] performance across the full spectrum of [the organization’s] activities.”<sup>93</sup>

### **1. Steps to Take When Putting This Principle into Practice**

Orpheus identifies five steps for putting this principle into practice.<sup>94</sup> An organization can loosen the reins of power<sup>95</sup> by 1) encouraging decision-making by all employees; 2) delegating tasks and authority widely; 3) involving employees in determining the goals of both the organization and the employee; 4) creating self-managing work teams; and 5) opening the organization’s financial books to all employees.<sup>96</sup>

With regard to the first step, Orpheus stresses that an organization should encourage all employees to engage in decision-making, “not just a select few.”<sup>97</sup> Human nature dictates that there

---

their employees with true authority and responsibility [include] better products and services, more satisfied customers, and increased revenue and profits.” Seifter, *supra* note 19, at 2; Townsley, *supra* note 91. On the other hand, “top-down tyranny in the workplace leads to poor morale, low retention rates, and significant opportunity costs for the entire organization.” SEIFTER & ECONOMY, *supra* note 3, at 20. On the other hand, “top-down tyranny in the workplace leads to poor morale, low retention rates, and significant opportunity costs for the entire organization.” Seifter & Economy, *supra* note 3, at 20.

<sup>93</sup> SEIFTER & ECONOMY, *supra* note 4, at 22.

<sup>94</sup> *Id.* at 36.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.* at 36-38. Given that opening the organization’s financial books to the employees is not directly relevant to a legal writing program, it will not be discussed further.

<sup>97</sup> *Id.* at 36. Orpheus has dispersed the power traditionally held by a conductor throughout the musicians—each “own[s] an equal share.” *Id.* at 25. The musicians each play an active role in key decision-making processes, such as selecting music and determining the orchestra’s interpretation of the music. *Id.* In addition to decisions regarding repertoire, the musicians also play an active role in deciding which musicians can join Orpheus, which musicians should be let go, and planning and implementing rehearsal processes. *Id.* Moreover, the musicians decide who will lead them on stage

will be leaders and followers in every organization; to ensure successful employee empowerment, an organization must not allow “these roles [to] get frozen in place.”<sup>98</sup> To ensure that employees are taken outside of their comfort zone and develop leadership *and* follower skills, organizations should “delegate decision-making authority down to the lowest level possible, [and] allow front-line workers to . . . [complete their tasks] without constantly seeking management approval.”<sup>99</sup> Organizations should “give employees at every level of leadership opportunities that are built . . . into their job descriptions and backed up by decision-making authority.”<sup>100</sup> Moreover, organizations should assign projects and tasks that “allow employees to develop decision-making skills” and “build their leadership muscles” gradually over time to avoid overwhelming employees for whom leadership does not come naturally.<sup>101</sup> Examples of such projects or tasks include “studying a business opportunity or problem and presenting a proposal to top management, organizing a company event, launching a new customer-service initiative, or chairing an inter-departmental committee.”<sup>102</sup>

With regard to the second step, the purpose of delegating tasks and authority widely is to allow the organization to take advantage of the myriad skills and abilities held by its highly skilled employees.<sup>103</sup> The organization can draw upon the capabilities of all its employees, allowing it to find “new ways to bring out the excellence in its employees and in the products and services they deliver.”<sup>104</sup>

With regard to the third step, employees should be involved in creating the goals of the organization as well as the employees’ personal goals.<sup>105</sup> When employees are involved in determining an

---

as the concertmaster and who will represent them in the administration and on the board. *Id.* at 22.

<sup>98</sup> *Id.* at 36.

<sup>99</sup> SEIFTER & ECONOMY, *supra* note 3, at 36.

<sup>100</sup> *Id.*

<sup>101</sup> *Id.*

<sup>102</sup> *Id.*

<sup>103</sup> *See id.* at 37.

<sup>104</sup> SEIFTER & ECONOMY, *supra* note 3, at 4. Orpheus musicians each play an active role in “finding the best way to contribute their specialized skills to the group as a whole.” *Id.* at 25.

<sup>105</sup> *Id.* at 37. The founding members of Orpheus early decided that “[m]anagement [would] not impose its vision on musicians.” *Id.* at 24.

organization's goals, they will feel invested in those goals.<sup>106</sup> This buy-in makes it much more likely that employees will meet the goals.<sup>107</sup> The final step is creating self-managing teams that put real power and authority in the hands of the employees.<sup>108</sup> Such teams have "an extraordinary track record of finding ways to build better products more efficiently than ever before."<sup>109</sup>

## 2. Potential Pitfalls

Orpheus warns of several potential pitfalls that will impact the effectiveness of an organization in putting the power in the hands of its employees. These dangers include an organization

- Delegating responsibility for certain jobs, projects, or tasks but failing to provide the authority necessary to complete them.<sup>110</sup> Managers generally do not struggle with delegating responsibility for completing tasks to employees but often fall short in granting the commensurate authority needed to complete those tasks. "Proper delegation requires a grant of authority as well as responsibility . . ."<sup>111</sup> An organization's failure to provide sufficient authority to complete the delegated tasks will result in "[employee] frustration when others in the organization impede their efforts or simply refuse to cooperate."<sup>112</sup> Thus, organizations should make sure to assign necessary authority when delegating responsibility to employees.<sup>113</sup>
- "Forgetting that old habits die hard" and that the old-fashioned hierarchical management model is difficult to undo.<sup>114</sup> Take, for example, the opinion of Jeffrey Pfeffer, a

---

<sup>106</sup> *Id.* at 37.

<sup>107</sup> *Id.*

<sup>108</sup> *Id.* at 38.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.* at 39. Delegating responsibility for tasks and projects "requires managers to let go of a certain amount of personal and organizational power, and many managers simply lack the confidence and experience to delegate effectively." *Id.*

<sup>111</sup> SEIFTER & ECONOMY, *supra* note 3, at 39. Management should assign to employees the authority to make necessary decisions as well as direct financial and other resources related to their responsibilities. *Id.*

<sup>112</sup> *Id.*

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

professor of business theory who studies manifestations of power in American businesses: “[H]ierarchy is a ‘fundamental structural principle of all organizational systems’ and the bling-bling dazzle of ... ‘flattened’ organizations like the Orpheus Chamber Orchestra” is misleading and should not blind us to the “deeper truths about the nature of structure.”<sup>115</sup> According to Pfeffer, “Hierarchy is found among communities of animals and fish. We may want hierarchy to disappear, so we actively seek out confirming evidence of its unimportance and imminent demise. But hierarchy and its consequences are here to stay.”<sup>116</sup>

- Failing to put appropriate feedback mechanisms into place.<sup>117</sup> According to Orpheus, “[d]elegated authority without feedback mechanisms can quickly lead to disaster.”<sup>118</sup> To successfully empower employees, “[p]roper delegation . . . requires setting up appropriate mechanisms for obtaining and integrating feedback, such as milestones, regular progress reports, status meetings, and other methods of communication.”<sup>119</sup>

In sum, the decentralization of power makes employees partners—it encourages them “to create, to speak up and find new and better ways of doing things.”<sup>120</sup> Because they feel ownership for decision-making, including both personal and institutional goals, employees will work harder at making the decision a success.<sup>121</sup>

---

<sup>115</sup> Mark MacNamara, *Reshaping the Orchestra Pyramid: The Orpheus Effect Revisited, Part II*, S.F. CLASSICAL VOICE (Apr. 17, 2018), <https://www.sfcv.org/article/reshaping-the-orchestra-pyramid-the-orpheus-effect-revisited-part-ii>.

<sup>116</sup> *Id.*

<sup>117</sup> SEIFTER & ECONOMY, *supra* note 3, at 39.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.* “The best tools provide exactly the quantity of genuinely valuable information managers and other employees need, at a frequency that doesn’t lead to employees spending more time on preparing reports or attending meetings than doing their jobs.” *Id.*

<sup>120</sup> *Id.* at 27.

<sup>121</sup> *Id.*; Bowen & Fretwell, *supra* note 22, at 5.

## B. Encourage Individual Responsibility for Product and Quality

Putting power in the hands of the people doing the work, or giving employees real responsibilities and authority to make decisions that will truly impact the organization, will not be successful if the organization fails to also encourage employees to take personal responsibility for product and quality.<sup>122</sup> “With authority comes responsibility;”<sup>123</sup> consequently, each employee will need to be “directly and personally responsible” for the quality of the organization’s performance.<sup>124</sup>

Under traditional models of hierarchical management, employees in knowledge-based industries often do not feel free to share ideas that reach beyond their primary responsibilities or areas of expertise.<sup>125</sup> In knowledge-based industries, such as orchestras, “individual initiative carries great risk and offers little potential for reward.”<sup>126</sup> Managers, such as orchestra conductors, provide little opportunity for the employees, or musicians, “to shape the product and its quality, other than by following orders.”<sup>127</sup> When an

---

<sup>122</sup> SEIFTER & ECONOMY, *supra* note 3, at 41.

<sup>123</sup> *Id.* at 15. In light of the fact that “Orpheus has no conductor and therefore no single person to take responsibility for the quality of its performances, each member of the orchestra feels a very real and personal responsibility for” the orchestra’s performance. Seifter, *supra* note 18, at 3; Townsley, *supra* note 90; SEIFTER & ECONOMY, *supra* note 3, at 15. Furthermore, each member of Orpheus is proactive in identifying and resolving issues or problems rather than waiting for a manager to identify or fix the problem. SEIFTER & ECONOMY, *supra* note 3, at 15.

<sup>124</sup> SEIFTER & ECONOMY, *supra* note 3, at 4. According to Orpheus, employees should have “no one to hide behind or pass the buck to.” *Id.* at 42. At Orpheus, each member is personally responsible for the creative product. *Id.* at 44. Each member also feels responsible for the quality of the overall performance—not only for their own playing, but that of the others as well. *Id.*

<sup>125</sup> *Id.* at 48.

<sup>126</sup> *Id.* at 42.

<sup>127</sup> *Id.* For example, when Don Palma, a musician who had been with the Orpheus Chamber Orchestra since its creation in 1972, went to play for the Los Angeles Philharmonic for a year, he hated it. *Id.* at 26; Seifter, *supra* note 19, at 3. “[He] didn’t like to be told what to do all the time, being treated like [he] wasn’t really worth anything other than to be a good soldier and just sit there and do as [he] was told.” Seifter, *supra* note 19, at 3; SEIFTER & ECONOMY, *supra* note 3, at 26. Palma “felt powerless to affect things, particularly when they were not going well. [He] felt frustrated, and there

employee's idea does find its way into the product or performance, the credit inevitably goes to the manager.<sup>128</sup> Consequently, employees feel "detached from the outcome of their own performance."<sup>129</sup>

Employees of all organizations, but especially knowledge-based ones, have the skills and abilities to improve "the organization's commitment to product and quality."<sup>130</sup> Organizations "that reward employees for taking on and fulfilling individual responsibility for product and quality also significantly increase their ability to attract and retain the best talent."<sup>131</sup> Some additional benefits that organizations can expect from encouraging employees to take personal responsibility for product and quality include "[i]ncreased employee engagement in their jobs, [i]ncreased employee satisfaction and loyalty,"<sup>132</sup> and increased productivity.<sup>133</sup> But while the organization can experience great benefits associated with employees taking personal responsibility, employees are not likely to take on greater personal responsibility unless they feel a sense of "ownership" of the organization<sup>134</sup> or that they "have a stake in the outcome."<sup>135</sup> Moreover, the organization must give employees a reason to take on additional personal responsibility.<sup>136</sup> It must reward employee

---

was nothing [he] could seem to do to help to make things better." SEIFTER & ECONOMY, *supra* note 3, at 26; Seiffter, *supra* note 19, at 3.

<sup>128</sup> SEIFTER & ECONOMY, *supra* note 3, at 42.

<sup>129</sup> *Id.* at 43. Musicians feel detached in a conducted orchestra because they play a passive role:

"Not only is less expected of [them], but less is expected from [them]. [They] have to play extremely well, but [they're] not playing off of [their] colleagues—[they're] playing off of that one person in front of the orchestra holding the baton. Everybody plays well, they do a very good job, but the level of individual emotional involvement isn't there."

*Id.* at 13 (emphasis omitted).

<sup>130</sup> *Id.* at 43.

<sup>131</sup> *Id.*

<sup>132</sup> *Id.*

<sup>133</sup> SEIFTER & ECONOMY, *supra* note 3, at 45.

<sup>134</sup> *Id.* at 51.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* at 45. It is estimated that fifteen to twenty-five percent of employees do not want more responsibility and often resist being held accountable for their own behavior. *Id.* (citing Curt Coffman, *Gallup's Discoveries about*

excellence when employees have taken on a substantial measure of individual responsibility for the success of the organization and their efforts have resulted in success.<sup>137</sup>

### **1. Steps to Take When Putting This Principle into Practice**

An organization can take five steps to foster “a culture of individual responsibility.”<sup>138</sup> To encourage employees to take individual responsibility for product and quality, an organization must 1) give employees leeway to define the “right” outcome; 2) give employees a sense of ownership; 3) expect employees to make their own decisions and to be accountable for those decisions and their impact; 4) instill pride in the job and in the organization; and 5) reward employees who take responsibility for product and quality.<sup>139</sup>

### **2. Potential Pitfalls**

Orpheus has identified several potential pitfalls that can impair an employee’s willingness to take on more personal responsibility for the product and its quality. These dangers include

- An organization having managers, systems, or processes that fail to hold employees accountable for their actions.<sup>140</sup> To inspire excellence or earn loyalty, an organization must hold employees accountable for their action, both the good and the bad. It must also strongly encourage employees to hold themselves accountable.<sup>141</sup>
- Managers who take all the credit for successes and give all the blame to employees for failure or mediocrity.<sup>142</sup> Good managers will “shine the spotlight on their [employees’] efforts, successes, and accomplishments. The better *they* look,

---

*Great Managers and Great Workplaces*, GALLUP MGMT. J. (Feb. 4, 2000), [www.gallup.com/poll/managing/RightPeople.asp](http://www.gallup.com/poll/managing/RightPeople.asp).)

<sup>137</sup> *Id.* at 61.

<sup>138</sup> SEIFTER & ECONOMY, *supra* note 3, at 59.

<sup>139</sup> *Id.* at 59-61.

<sup>140</sup> *Id.* at 62.

<sup>141</sup> *Id.*

<sup>142</sup> *Id.* Such managers tend to dislike the team concept. Mike Putnam, *COMS 3309: Organizational Communication, Chapter 8 Notes*, University of Texas Arlington, Department of Communication (on file with author).

the better [the manager will] look.”<sup>143</sup> However, a manager who chooses to assign blame rather than find solutions to problems will result in fewer employees taking on more personal responsibility for product and quality.<sup>144</sup>

- Complacency, or employees who avoid taking chances to improve products and services.<sup>145</sup> These employees are happy to maintain the status quo and may not take or accept responsibility.<sup>146</sup> To be successful, an organization must anticipate “the Next Big Thing and respond to it before the competition.”<sup>147</sup> Complacency is not an option for organizations that wish to thrive, and it will lead to mediocrity.<sup>148</sup>

In sum, organizations that foster a culture of individual responsibility will increase employee satisfaction, loyalty, and retention; increase employee engagement; improve productivity; and attract the best and the brightest employees.<sup>149</sup>

### C. Create Clarity of Roles

Unclear roles can lead to a variety of problems, including employee conflict, orphaned responsibilities, wasted effort, poor morale, poor products, and inefficient or chaotic processes.<sup>150</sup> By clearly defining the roles and responsibilities of each employee, an organization can minimize confusion and make certain that each employee’s energies are focused and that their work is performed efficiently and effectively.<sup>151</sup> Thus, to be competitive, organizations

---

<sup>143</sup> SEIFTER & ECONOMY, *supra* note 3, at 62.

<sup>144</sup> *See id.* at 62.

<sup>145</sup> *Id.*

<sup>146</sup> Putnam, *supra* note 142.

<sup>147</sup> DAVID A. HEENAN & WARREN BENNIS, CO-LEADERS: THE POWER OF GREAT PARTNERSHIPS 7 (1999); *see* SEIFTER & ECONOMY, *supra* note 3, at 63. “[O]rganizations are like organisms, constantly adapting to shifts in the global environment.” HEENAN & BENNIS, *supra*, at 7. If an organization is unable to anticipate its customers’ future needs and “meet them there, *ahead* of the competition,” it will fail. SEIFTER & ECONOMY, *supra* note 3, at 63.

<sup>148</sup> Putnam, *supra* note 142.

<sup>149</sup> SEIFTER & ECONOMY, *supra* note 3, at 43, 45.

<sup>150</sup> *Id.* at 15, 66.

<sup>151</sup> *Id.* at 15.

must create clear and unambiguous roles for their employees that provide them “with a set of expectations for performance.”<sup>152</sup>

To create clarity of roles, an organization must not only ensure that each employee understands his or her roles and responsibilities but also those of his or her coworkers.<sup>153</sup> “[E]veryone in [the] organization must understand what roles exist, precisely who is in which role at any given moment, and by what criteria each individual’s performance will be judged.”<sup>154</sup> Clear and unambiguous roles and responsibilities are not only important to those inside an organization but also to those from the outside with whom the organization interacts, such as customers, vendors, and business partners.<sup>155</sup> Because “people tend to relate to organizations in standardized and fairly predictable ways,” an organization must have “a clear and comprehensible distribution of roles and responsibilities; in other words, there have to be people within [the organization] who function in standardized industry roles.”<sup>156</sup>

Organizations that create clear and unambiguous roles for their employees enjoy several benefits, including increased employee responsibility and accountability; decreased duplication of effort resulting in greater efficiency and increased worker productivity; “[i]mproved morale, resulting from decreased internal ambiguity” and fewer conflicts with coworkers; and “[i]ncreased [employee] satisfaction and loyalty, coupled with reduced rates of employee turnover.”<sup>157</sup>

### **1. Steps to Take When Putting This Principle into Practice**

Organizations trying to clarify roles need to take five steps.<sup>158</sup> First, an organization must develop formal, written job descriptions.<sup>159</sup> The job descriptions should not only identify a precise list of duties but also answer questions concerning the purpose of the work, why the work is important, what is accomplished by performing

---

<sup>152</sup> *Id.* at 85.

<sup>153</sup> *Id.* at 66.

<sup>154</sup> SEIFTER & ECONOMY, *supra* note 3, at 71.

<sup>155</sup> *Id.* at 72.

<sup>156</sup> *Id.*

<sup>157</sup> *Id.* at 67.

<sup>158</sup> *Id.* at 82-83.

<sup>159</sup> SEIFTER & ECONOMY, *supra* note 3, at 82.

the tasks, and how to accomplish the tasks.<sup>160</sup> Second, in addition to identifying formal job duties, an organization must clarify informal job duties as well.<sup>161</sup> Given that informal job duties are generally not included in written job descriptions, supervisors must clearly explain such informal job duties to employees to ensure that each employee realizes the performance expectations that accompany his or her position.<sup>162</sup>

The third step that an organization must take when clarifying roles is to constantly assess individual performance.<sup>163</sup> The fourth step is to widely publicize job duties.<sup>164</sup> To ensure that employees are aware of who is responsible for what within an organization, job descriptions must be accessible to all employees.<sup>165</sup> The fifth, and final step that an organization must take when attempting to clarify roles is to encourage employees to learn new roles and responsibilities.<sup>166</sup> These new roles and responsibilities should, of course, be memorialized by putting them in writing.<sup>167</sup>

## 2. Potential Pitfalls

Several potential hazards exist with regard to clarifying employee roles and responsibilities. These dangers include the following:

---

<sup>160</sup> *Id.*

<sup>161</sup> *Id.* Most employees have formal and informal job duties. Take, for example a payroll clerk. “[A] payroll clerk may be expected to advise other employees regarding insurance claim procedures and participate in departmental quality-improvement efforts in addition to issuing paychecks, tracking employee leave, and data entry.” *Id.* While the latter responsibilities are formal duties that likely would be included in a formal job description for a payroll clerk, the informal duties would need to be clearly explained to the employee by his or her supervisor since informal duties are rarely included in a job description. *Id.*

<sup>162</sup> SEIFTER & ECONOMY, *supra* note 3, at 82.

<sup>163</sup> *Id.* at 82-83.

<sup>164</sup> *Id.* at 83.

<sup>165</sup> *Id.* To make job descriptions widely available to employees, an organization may put them on the organization’s website, on an Intranet, or in a loose-leaf binder. *Id.*

<sup>166</sup> *Id.*

<sup>167</sup> SEIFTER & ECONOMY, *supra* note 3, at 83.

- “Job descriptions that are ambiguous, ignored, or don’t exist at all.”<sup>168</sup> Poorly written or ambiguous job descriptions make employees uncertain about what their job responsibilities are. Employees who are uncertain about their job duties most likely are not completing the tasks their employer needs done nor pursuing the goals that their employer values the most.<sup>169</sup> Organizations need to have job descriptions for their employees that are clear, comprehensible, and easily accessible by employees.<sup>170</sup>
- Indefinite points of contact for those outside the organization, such as customers and clients.<sup>171</sup> Individuals outside an organization require “clear lines of communication, and . . . should never be in the dark about who to contact when problems arise or questions need answers.”<sup>172</sup> Thus, organizations need to ensure that their employee job titles are unambiguous and make sense to customers.<sup>173</sup> Organizations also need to ensure that everyone who interacts with it “has easy access to a directory of all the people they’ll ever need to contact.”<sup>174</sup>
- Excessive role overlap.<sup>175</sup> Role overlap occurs when more than one employee shares responsibility for a particular duty or set of duties.<sup>176</sup> Excessive role overlap can be problematic for two primary reasons. First, excessive role overlap for a task may result in duplicative efforts by employees and employee conflict.<sup>177</sup> Conflict may arise if each employee tries to complete the task in different ways.<sup>178</sup> Additionally, excessive role overlap can result in

---

<sup>168</sup> *Id.*

<sup>169</sup> *Id.* at 84.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> SEIFTER & ECONOMY, *supra* note 3, at 84.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.*

<sup>176</sup> Excessive role overlap is when two individuals are responsible for the same activities or tasks. Management Innovations, *Responsibility*, <https://managementinnovations.wordpress.com/tag/overlapping-responsibility/> (last visited Dec. 29, 2019).

<sup>177</sup> SEIFTER & ECONOMY, *supra* note 3, at 84; Management Innovations, *supra* note 176.

<sup>178</sup> SEIFTER & ECONOMY, *supra* note 3, at 84.

orphaned responsibilities—“each employee may believe that the other” employee intends to complete the task, resulting in work going undone.<sup>179</sup> Either situation will cause employees frustration and may compromise projects.<sup>180</sup>

In sum, “clear roles are a valuable asset to any organization” as they provide the foundation upon which organizations may build a flexible and collaborative management process.<sup>181</sup>

#### **D. Share and Rotate Leadership<sup>182</sup>**

Most organizations follow the traditional leadership model, where leadership is fixed or “formally vested in certain positions and not in others. Managers are . . . leaders and workers are expected to be followers. The higher up the organization chart an individual’s position resides, the more power he or she wields.”<sup>183</sup> The traditional leadership model fixes leadership authority in positions or titles rather than in people.<sup>184</sup> This leadership approach “wastes the

---

<sup>179</sup> SEIFTER & ECONOMY, *supra* note 3, at 84; Management Innovations, *supra* note 176.

<sup>180</sup> SEIFTER & ECONOMY, *supra* note 3, at 84.

<sup>181</sup> *Id.* at 85.

<sup>182</sup> “The heart and soul of the Orpheus Process” is sharing and rotating leadership among all employees. Seifter, *supra* note 19, at 5; Townsley, *supra* note 90.

While most orchestras fix leadership authority within one particular position, the conductor, Orpheus takes a different approach. Whenever the orchestra decides to take on a new piece of music, the group appoints one of its members to lead the development of the piece. The leader is selected on the basis of what skills and knowledge he or she brings to the piece—someone who is expert in baroque music will be selected to lead a Handel selection, someone who is particularly knowledgeable about twentieth century composers will take on a Stravinsky piece. In this way, leadership is shared and rotated among the different members of the group, and the strengths of individual members of the group are brought to the fore.

Seifter, *supra* note 18, at 5; Townsley, *supra* note 90.

<sup>183</sup> Seifter, *supra* note 18, at 4-5; Townsley *supra* note 90.

<sup>184</sup> Seifter, *supra* note 18, at 5; Townsley, *supra* note 91.

leadership potential within employees whose positions are not a part of the organization's formal leadership hierarchy. This potential is often ignored or discarded."<sup>185</sup>

Most knowledge workers are self-directed<sup>186</sup> and "seek challenge, stimulation, and variety."<sup>187</sup> Organizations can satisfy this desire for challenge, stimulation, variety, and self-direction by fostering a work environment that strongly encourages "employees to rotate in and out of positions of leadership on the projects and tasks that most interest them, regardless of their rank or position."<sup>188</sup> Such an environment taps into these employees' self-motivation and provides them with "opportunities for self-direction, variety, and professional growth."<sup>189</sup>

"[S]haring and rotating leadership fuels employee motivation, leading to improved productivity and organizational effectiveness."<sup>190</sup> Organizations benefit from sharing and rotating leadership in several ways, including an increase in leaders emerging from the employee ranks; greater "employee commitment resulting from increased feelings of ownership"; "increased diversity of ideas and approaches to capitalizing on opportunities and dealing with problems"; and increased employee engagement in their jobs.<sup>191</sup>

### **1. Steps to Take When Putting This Principle into Practice**

The key to sharing and rotating leadership responsibility is in training "employees to lead *and* follow."<sup>192</sup> To be a good team player who contributes to the success of the organization, it is imperative that employees learn how to be a good follower as well as a good leader.<sup>193</sup> Moreover, it is important to assume that "leaders and

---

<sup>185</sup> Seifter, *supra* note 18, at 5; Townsley, *supra* note 90.

<sup>186</sup> SEIFTER & ECONOMY, *supra* note 3, at 88. Great tension exists between "the knowledge worker's inherent bias toward self-management" and the rigid command-and-control structure of the traditional model of hierarchical management. *Id.* at 10-11.

<sup>187</sup> *Id.* at 89.

<sup>188</sup> *Id.*

<sup>189</sup> *Id.* at 88.

<sup>190</sup> *Id.*

<sup>191</sup> SEIFTER & ECONOMY, *supra* note 3, at 90.

<sup>192</sup> Putnam, *supra* note 143 (emphasis in original).

<sup>193</sup> *Id.*

followers are equals”<sup>194</sup> and that all employees are able to “function in both roles.”<sup>195</sup> This “hierarchy of equals” structure encourages each employee to be an active participant “in making decisions for the organization’s benefit” and in satisfying the organization’s goals and objectives.<sup>196</sup> Sharing and rotating leadership responsibilities allows each employee to have a voice in how the organization is run.<sup>197</sup>

In those situations where a particular leader has special duties, his or her special leadership role can be recognized as *primes inter pares*, or “first among equals.”<sup>198</sup> For example, “the pure democracy of

---

<sup>194</sup> SEIFTER & ECONOMY, *supra* note 3, at 90. According to Orpheus, “followership”—doing what needs to be done in an organization without having to be told to do it—is an equally important skill as leadership for employees to have. *Id.* at 103.

<sup>195</sup> *Id.* at 90. Sharing leadership responsibilities ensures that the organization has a broad range of employees who can both command and follow. HEENAN & BENNIS, *supra* note 147, at 19. This new model produces a more egalitarian management approach that is better suited to the needs of the new millennium. *Id.* At Orpheus, every member of the orchestra is *expected* to serve as a leader and follower. *Id.* (emphasis added). Orpheus believes “that every employee has something of value to contribute, and that by sharing and rotating leadership, organizations can benefit from the unique skills and experience of each individual.” SEIFTER & ECONOMY, *supra* note 3, at 15.

<sup>196</sup> SEIFTER & ECONOMY, *supra* note 3, at 106.

<sup>197</sup> *Id.* at 106. Fixing leadership authority in positions or titles rather than in people is an outdated hallmark of the rigid hierarchical leadership model of yesterday. HEENAM & BENNIS, *supra* note 147, at 4-5. “In this new organizational galaxy, power doesn’t reside in a single person or corner office. Rather power and responsibility are dispersed, giving the enterprise a whole constellation of costars—co-leaders with shared values and aspirations, all of whom work together toward common goals.” *Id.* at 5. Commentators have advised that, when embracing the principle of sharing leadership and casting aside the traditional leadership model, organizations should “tear up the leadership chart[s]” and “[l]et reality build [such] chart[s].” Bowen & Fretwell, *supra* note 21, at 5; Putnam, *supra* note 143. They have further advised that “[g]reat leaders can be found anywhere in the company,” Putnam *supra* note 143, and that, when identifying leaders, the organization should remember that “actions speak louder than doorplates.” Bowen & Fretwell, *supra* note 21, at 5.

<sup>198</sup> SEIFTER & ECONOMY, *supra* note 3, at 68. As one commentator said, “The old corporate monotheism is finally giving way to a more realistic view that acknowledges leaders not as organizational gods but as the first among many contributors.” HEENAM & BENNIS, *supra* note 147, at 4.

chamber music, which Orpheus takes as its ideal, recognizes the special leadership role of the concertmaster.<sup>199</sup> In Orpheus, “the concertmaster is usually the designated leader of the entire group during rehearsals and performances.”<sup>200</sup> While the concertmaster’s primary duty is to shepherd the orchestra through the collaborative process, “bringing focus and shape to the musical interpretation,” he or she must also encourage other musicians “to contribute ideas to the discussion.”<sup>201</sup> Every member of the orchestra respects the role of the concertmaster and works to support him or her.<sup>202</sup> Concertmasters are chosen based on their musical expertise and the needs of the unique piece of repertoire that is to be performed.<sup>203</sup> Rotating the role of concertmaster among the musicians allows Orpheus “to have all its members ready for the role of either leader or follower.”<sup>204</sup> It also means that leaders know “what kind of help to expect from the followers” and followers understand “what kind of feedback to give to the concertmaster.”<sup>205</sup>

While some people are naturally inclined to leadership positions and others shy away from them, this does not have to be a roadblock.<sup>206</sup> An organization transitioning to collaborative management must encourage employees to take on leadership positions and provide opportunities for employees to develop their leadership skills.<sup>207</sup> One way that employees can be taught to lead is to give them leadership training.<sup>208</sup> Organizations should also take advantage of the leadership abilities of their employees who have demonstrated strong leadership skills and have them mentor other

---

<sup>199</sup> SEIFTER & ECONOMY, *supra* note 3, at 68.

<sup>200</sup> *Id.*

<sup>201</sup> *Id.* at 69. The concertmaster “leads performances[] and works closely with all the musicians to develop a unified vision for the music. *Id.* at 12. Moreover, the concertmaster has been compared to a shop foreman. *Id.*

<sup>202</sup> *Id.* at 68-69.

<sup>203</sup> Seifter, *supra* note 18, at 5.

<sup>204</sup> Moshe Banai, John Nirenberg, & Moshe Menachem, *Leadership in Self-Managing Organizations: Orpheus and a Date Plantation*, *J. of Leadership Studies* Vol. 7, No. 3 at 11 (2000).

<sup>205</sup> *Id.*

<sup>206</sup> SEIFTER & ECONOMY, *supra* note 3, at 97. Researchers struggle with the question of whether leaders are born or made. *Id.* While it is true that certain traits like confidence, charisma, and intelligence are more innate and less likely to be taught or learned, leadership skills can most definitely be taught.

*Id.*

<sup>207</sup> *Id.*

<sup>208</sup> *Id.* at 103.

employees who are interested in taking on more leadership duties but do not take to it naturally.<sup>209</sup> Moreover, organizations should provide a variety of contexts in which employees can slowly flex their leadership muscles, such as presenting a proposal to managers higher up the organizational chart, chairing an inter-departmental committee, launching a new initiative, or organizing a company event.<sup>210</sup> The more employees practice being leaders, the better they get at leading.<sup>211</sup>

## 2. Potential Pitfalls

Organizations transitioning to a system of shared and rotated leadership need to be aware of several potential hazards. These dangers include the following:

- A few individuals hijacking leadership opportunities.<sup>212</sup> Ambitious or charismatic individuals can easily dominate leadership opportunities to the exclusion of other employees unless the organization is vigilant about making certain that these roles do not “default to the same people.”<sup>213</sup> To create a work environment where sharing leadership roles may “unleash[] the creative energy of every member of the team,” the organization should make certain that new people are constantly serving in leadership roles.<sup>214</sup>
- Leaders who fail to take responsibility for the consequences of their decisions.<sup>215</sup> Some “newly empowered leaders will fail to accept or understand the responsibilities that go with their [new grant of] authority.”<sup>216</sup> The organization must make clear to its newly empowered leaders that taking responsibility for

---

<sup>209</sup> *Id.*

<sup>210</sup> *Id.* at 36.

<sup>211</sup> SEIFTER & ECONOMY, *supra* note 3, at 97.

<sup>212</sup> *Id.* at 105.

<sup>213</sup> *Id.*

<sup>214</sup> *Id.* at 105-06.

<sup>215</sup> *Id.* at 106.

<sup>216</sup> SEIFTER & ECONOMY, *supra* note 3, at 106. This is the risk of “distribut[ing] leadership beyond a small group of professional managers.” *Id.*

one's actions and decisions is a leadership characteristic that is important to the organization.<sup>217</sup> To reinforce this lesson, the organization should adopt "evaluation systems that take personal responsibility into account" and recognize and reward employees who exhibit personal responsibility.<sup>218</sup>

- Managers who claim to give "workers leadership opportunities but who then punish employees who speak up or try something new."<sup>219</sup> To avoid this snag, an organization must make clear to all employees, including managers, that it supports and encourages leadership behavior from employees in any segment of the organization.<sup>220</sup> The organization should train managers in effective delegation techniques and reward those who effectively utilize those skills.<sup>221</sup>

In sum, sharing and rotating leadership "can fuel employee motivation, leading to improved productivity and organizational effectiveness."<sup>222</sup> When different employees participate in the leadership process, the organization can also benefit from a more diverse set of perspectives for problem solving and the discovery of employee talent that was previously unknown.<sup>223</sup>

### **E. Foster Horizontal Teamwork**

"Team power results from drawing together a diverse group of people who pool their skills and experience to further their organization's goals."<sup>224</sup> Horizontal "[t]eamwork can cut across traditional departmental boundaries and formal hierarchies."<sup>225</sup> Given that many knowledge workers are problem solvers,<sup>226</sup> having

---

<sup>217</sup> *Id.*

<sup>218</sup> *Id.* at 106.

<sup>219</sup> *Id.* at 105.

<sup>220</sup> *Id.*

<sup>221</sup> SEIFTER & ECONOMY, *supra* note 3, at 105.

<sup>222</sup> Putnam, *supra* note 142.

<sup>223</sup> *Id.*

<sup>224</sup> SEIFTER & ECONOMY, *supra* note 3, at 123.

<sup>225</sup> Putnam, *supra* note 142.

<sup>226</sup> SEIFTER & ECONOMY, *supra* note 3, at 109.

such employees work in “horizontal” teams<sup>227</sup> allows organizations to leverage the “expertise, leadership skills, and creativity” possessed by each individual employee to develop intelligent solutions to problems.<sup>228</sup> Horizontal teams allow an organization to tap into the unique set of strengths possessed by individual employees and amplify the skill levels of employees.<sup>229</sup> When organizations foster horizontal teamwork and give employee teams true authority to make important decisions that impact the organization, it motivates employees, increases their sense of responsibility for the organization’s success, and gives them a sense of ownership of the organization’s achievements.<sup>230</sup> Other benefits flowing from well-functioning horizontal teams include “[i]mproved communication across traditional organizational lines”; “[i]mproved organizational ability to capitalize on opportunities”; “[b]etter solutions to difficult problems”;<sup>231</sup> “[i]mproved quality and better customer service”; and “[m]ore empowered, engaged, and enthusiastic employees.”<sup>232</sup> Moreover, teamwork can be used to make up “for the natural ebb[] and flow[] of employee energy and engagement in their jobs.”<sup>233</sup> When one employee’s energy and/or engagement begins to wane, another employee can step in to preserve the team’s momentum.<sup>234</sup>

Thus, organizations “should devote considerable attention to developing teamwork skills” among employees, “such as how to cross organizational boundaries, support and complement one another,

---

<sup>227</sup> Horizontal teams are comprised of employees from diverse departments. *Id.* at 107. Vertical teams are comprised of employees from one department. *Id.* at 133.

<sup>228</sup> *Id.* at 108.

<sup>229</sup> *Id.* at 107, 123.

<sup>230</sup> *Id.* at 123.

<sup>231</sup> SEIFTER & ECONOMY, *supra* note 3, at 109. Although “[t]he familiar saying that a camel is a horse designed by a committee suggests that committees make poor decision,” DAVID PERKINS, KING ARTHUR’S ROUND TABLE: HOW COLLABORATIVE CONVERSATIONS CREATE SMART ORGANIZATIONS 14 (2003), “[t]he psychological literature indicates that groups make better choices than do individuals.” HEENAM & BENNIS, *supra* note 147, at 14. Thus, it seems that two (or more!) heads are better than one. *Id.*

<sup>232</sup> SEIFTER & ECONOMY, *supra* note 3, at 110.

<sup>233</sup> *Id.* at 114.

<sup>234</sup> *Id.*

and function as generalists.”<sup>235</sup> The ability to cross-organizational lines results in employees taking “direct personal responsibility for product quality,” sharing and rotating leadership roles fluidly, and “supporting and complementing one another fully.”<sup>236</sup>

### 1. Steps to Take When Putting This Principle into Practice

Orpheus has identified five steps to fostering integrated and effective teamwork.<sup>237</sup> The first step is to “create a team-oriented organization that values self-management.”<sup>238</sup> Accomplishing this “requires some degree of decentralized activity with employees making decisions apart from one central headquarters.”<sup>239</sup> The second step in encouraging effective teamwork is to make horizontal teams responsible for decisions that have a significant impact on the organization.<sup>240</sup> To create organization-changing goals,<sup>241</sup> a team must “push the envelope and look at new and innovative options”; it must “challenge conventional wisdom.”<sup>242</sup> The third step is to “encourage the development of informal teams.”<sup>243</sup> Such informal, or ad hoc, teams allow an organization to “marshal the skills and experience of many employees to address specific projects as needs arise.”<sup>244</sup> The fourth step in fostering effective teamwork is to “cross-train employees” across departments to ensure that employees learn a variety of jobs and so have a grasp of the big picture.<sup>245</sup> Cross-

---

<sup>235</sup> SEIFTER & ECONOMY, *supra* note 3, at 111, 118. Organizations should also devote attention to rotating leadership opportunities and “offering opportunities for learning and growth whenever possible.” *Id.* at 118.

<sup>236</sup> *Id.* at 113.

<sup>237</sup> *Id.* at 131. Effective teamwork requires teams to do more than just “report work results and provide information to the established management hierarchy” as many businesses have teams do. *Id.* at 110. To have a well-functioning and effective team, the team should focus on “[o]utcomes, not reporting lines.” *Id.* at 112.

<sup>238</sup> *Id.* at 131.

<sup>239</sup> Putnam, *supra* note 143.

<sup>240</sup> SEIFTER & ECONOMY, *supra* note 3, at 131.

<sup>241</sup> Putnam *supra* note 142; Bowen & Fretwell, *supra* note 21, at 6.

<sup>242</sup> Putnam, *supra* note 142.

<sup>243</sup> SEIFTER & ECONOMY, *supra* note 3, at 132. “Involvement, not containment, is the way to minimize disruption.” *Id.*

<sup>244</sup> *Id.* at 110.

<sup>245</sup> *Id.* at 132; Bowen & Fretwell, *supra* note 21, at 6; Putnam, *supra* note 142.

training employees ensures less down-time and helps employees appreciate what others within the organization do.<sup>246</sup> The final step to fostering effective teamwork is to provide team resources.<sup>247</sup> The organization must make certain that the teams not only have the authority to make decisions but also the time, the budget, the facilities, and the training.<sup>248</sup>

## 2. Potential Pitfalls

There are several potential pitfalls that organizations must watch for when fostering horizontal teamwork. These dangers include the following:

- “Vertical teams that draw on only one department’s expertise.”<sup>249</sup> Like people tend to think alike<sup>250</sup> and vertical teams often base their decisions on inherently limited and biased data.<sup>251</sup> Including employees from diverse departments brings in “new ideas, fresh perspectives, and different approaches.”<sup>252</sup>
- “Groupthink.” Groupthink occurs when members of a group make irrational decisions because they “value harmony and coherence above rational thinking.”<sup>253</sup> The group members’ quest for “unanimity override[s] their motivation to realistically appraise alternative courses of action.”<sup>254</sup> Individual members of

---

<sup>246</sup> Putnam, *supra* note 142.

<sup>247</sup> SEIFTER & ECONOMY, *supra* note 3, at 133.

<sup>248</sup> Putnam, *supra* note 142.

<sup>249</sup> SEIFTER & ECONOMY, *supra* note 3, at 133.

<sup>250</sup> Putnam, *supra* note 142.

<sup>251</sup> SEIFTER & ECONOMY, *supra* note 3, at 133.

<sup>252</sup> *Id.*

<sup>253</sup> Psychology Today, *Groupthink Basics*, <https://www.psychologytoday.com/us/basics/groupthink> (last visited Nov. 19, 2019) [hereinafter *Groupthink Basics*].

<sup>254</sup> IRVING JANIS, VICTIMS OF GROUPTHINK 9 (1972). When groupthink is operating, the members of the group share illusions of superiority that impedes their critical analysis and reality testing. Marleen A. O’Connor, *The Enron Board: The Perils of Groupthink*, 71 U. CINN. L. REV. 1233, 1238-391239 (2003). The group “believe[s]believes that their goals are based on

the group keep their personal reservations to themselves and unquestioningly follow the opinions and feelings prevailing in the group.<sup>255</sup> “[G]roup members refrain from expressing doubts and judgments or disagreeing with the consensus” and “ignore any ethical or moral consequences” of any group decision.<sup>256</sup> This “go along to get along” attitude can seriously undermine the value of teamwork and can even destroy a group.<sup>257</sup> “The antidote [to groupthink] is open communication.”<sup>258</sup> Instead of presuming that there are no alternative points of view, or shutting them down when first mentioned, team leaders should “invite them, and encourage respectful but frank discussion of their relative merits.”<sup>259</sup>

- “Aggressive employees who hijack the team process.”<sup>260</sup> These employees are “aggressive, loud, and forceful, and they will often stop at nothing to get their way, including pressuring coworkers and shouting down opposition.”<sup>261</sup> They are trying to “manipulat[e] team processes to their advantage” in order “to impress management, create a power base, or ... get ahead.”<sup>262</sup> To combat such aggression, team leaders must not only confront the employee engaging in such behavior but also urge other employees who are not participating in the team process to take a more active role.<sup>263</sup> If the aggressive employee continues to disrespect other members of the

---

ethical principles and they stop questioning the morality of their behavior.”  
*Id.* at 1258.

<sup>255</sup> O’Connor, *supra*, note 254, at 1239. *Groupthink Basics*, *supra* note 253; SEIFTER & ECONOMY, *supra* note 3, at 133-34. Members of the group are able to “ignore negative information by viewing messengers of bad news as people who ‘don’t get it.’” O’Connor, *supra* note 254, at 1239.

<sup>256</sup> *Groupthink Basics*, *supra* note 253. Group members self-censor their concerns in an effort to maintain group consensus. JANIS, *supra* note 254, at 198. They internally minimize their misgivings, convinced that their doubts are not relevant or important and that they should give the benefit of the doubt to the group consensus. *Id.* at 201.

<sup>257</sup> SEIFTER & ECONOMY, *supra* note 3, at 134.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.*

<sup>260</sup> *Id.*

<sup>261</sup> *Id.*

<sup>262</sup> *Id.*

<sup>263</sup> SEIFTER & ECONOMY, *supra* note 3, at 134.

team and refuses to allow all employees to voice their opinions, team leaders may have to remove that employee from the team.<sup>264</sup>

In sum, “teamwork can be an extremely powerful tool for harnessing the expertise of employees.”<sup>265</sup> However, to actualize this benefit, organizations must “build teams with diverse expertise or give the teams the real responsibility and authority to make decisions traditionally done only by management.”<sup>266</sup>

## F. Learn to Listen, Learn to Talk

A touchstone of the Orpheus Process is respectful two-way communication where all employees express ideas and listen to other points of view.<sup>267</sup> To ensure that the full resources of an organization “are brought to bear on organizational decision making,” it must have open communication<sup>268</sup> where “no topic, no matter how sensitive or controversial, is out of bounds.”<sup>269</sup> In free and unfettered communicative environments, employees learn to listen to each other as well as how and when to offer input based on their expertise.<sup>270</sup> Respectful, two-way communication, which is built upon talking *and* listening, facilitates swifter development of new and innovative ideas and earlier identification of potential problems.<sup>271</sup> For an organization

---

<sup>264</sup> *Id.*

<sup>265</sup> *Id.* at 135.

<sup>266</sup> Putnam, *supra* note 142.

<sup>267</sup> SEIFTER & ECONOMY, *supra* note 3, at 146. While “[t]raditional business communication is a formal and fairly rigid process that reflects and reinforces strict hierarchies, bottom-up reporting, and top-down decision making,” such an approach does not work when management is decentralized *Id.* at 138.

<sup>268</sup> *Id.* Moreover, knowledge workers tend to thrive in free and unfettered “communicative environments, where information and ideas flow up, down, and around the organization.” *Id.* at 137-38. Conversely, “knowledge workers tend to function poorly “in environments defined in by organizational control and constraint.” *Id.* at 137.

<sup>269</sup> *Id.* at 140. “[C]reating an environment where everyone is encouraged to talk to and listen to colleagues [ensures] a steady supply stream of good ideas.” *Id.* at 146.

<sup>270</sup> *Id.* at 138-39.

<sup>271</sup> SEIFTER & ECONOMY, *supra* note 3, at 139.

to achieve such results, its employees must be willing to master both talking and listening skills.<sup>272</sup>

### **1. Steps to Take When Putting This Principle into Practice**

For meaningful two-way communication to occur, employees must not only learn when and how to talk, but also when and how to listen.<sup>273</sup> With regard to learning to listen, employees should be “expected to listen to one another’s views and opinions, and to respect what is said and the person who said it—whether or not they agree with what is being said.”<sup>274</sup> When employees have been “conditioned by years of experience in hierarchical workplaces, where listening to top-down direction is second nature,” they will often need to work on balancing their talking and listening skills before they can function effectively in an open communicative environment.<sup>275</sup> Orpheus has developed ground rules for creating the free and unfettered communication that is necessary for effective teamwork.<sup>276</sup> These ground rules include respect for “employee expertise, an organization-wide understanding of the appropriate language and time frame for idea sharing, and a system for filtering ideas.”<sup>277</sup>

The most basic value in a multicultural society is respect.<sup>278</sup> While “respect for employees is fundamental to the development of any successful organization, . . . there [is] much more to the process than simply treating employees well.”<sup>279</sup> The process must be founded on the unshakable conviction that each employee contributes unique and valuable knowledge and skills.<sup>280</sup> The belief that other employees have a lot to offer and that they are each contributing their unique expertise to the process creates mutual respect.<sup>281</sup> This mutual respect encourages employees “to communicate and bring their ideas and solutions to the attention of those who can implement them.”<sup>282</sup>

---

<sup>272</sup> *Id.*

<sup>273</sup> *Id.* at 141.

<sup>274</sup> Seifter, *supra* note 18, at 5; Townsley, *supra* note 90.

<sup>275</sup> SEIFTER & ECONOMY, *supra* note 3, at 141.

<sup>276</sup> *Id.*

<sup>277</sup> *Id.*

<sup>278</sup> *Id.* at 148.

<sup>279</sup> *Id.*

<sup>280</sup> SEIFTER & ECONOMY, *supra* note 3, at 141.

<sup>281</sup> *Id.* at 142.

<sup>282</sup> *Id.* at 148.

Orpheus has developed five ground rules<sup>283</sup> for maintaining an environment of mutual respect. First, being on time to a meeting “is a fundamental way for each individual to show respect for colleagues.”<sup>284</sup> Wasting another person’s time sends the message, intended or not, that the person’s time is not as important as yours.<sup>285</sup> Second, avoiding the use of unnecessarily inflammatory or personally insulting language when constructively criticizing the ideas or performance of another employee is crucial to maintaining an environment of mutual respect.<sup>286</sup> Third, criticizing only those issues that are significant due to “their impact on product or quality” is critical to sustaining an environment of mutual respect.<sup>287</sup> For example, when an employee makes a mistake or otherwise performs below expectations, this should only be commented on if it is a recurring problem and only in terms of how to improve the employee’s performance.<sup>288</sup> Fourth, individuals should refrain from offering frivolous ideas or suggestions due to the time it takes to effectively vet each idea.<sup>289</sup> When ideas are communicated to the group, they should be thoroughly considered and given a fair hearing.<sup>290</sup> Fifth, to foster an environment of mutual respect, an organization should use a system of constructive confrontation.<sup>291</sup> Constructive confrontation assumes that truth telling is more productive and valuable to the organization’s bottom line than “yes-man” behavior.<sup>292</sup>

---

<sup>283</sup> Seifter and Economy expressly identify three behaviors that function as ground rules for maintaining an environment of mutual respect, which include “[b]eing on time,” “[u]sing language precisely,” and “[l]etting go of trivial issues.” *Id.* at 143. They also identify not offering frivolous ideas or suggestions as a means of demonstrating respect for each other. *Id.* at 144. Moreover, when examining Intel’s management approach, Seifter and Economy seem to also embrace creating “a culture of constructive confrontation” as a means of demonstrating respect for colleagues. *Id.* at 152, <sup>284</sup> *Id.* at 143.

<sup>285</sup> *Id.*

<sup>286</sup> SEIFTER & ECONOMY, *supra* note 3, at 143.

<sup>287</sup> *Id.* at 143-44.

<sup>288</sup> *Id.* at 144.

<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> SEIFTER & ECONOMY, *supra* note 3, at 152.

<sup>292</sup> *Id.* at 152-53.

## 2. Potential Pitfalls

There are several potential hazards with regard to this principle of learning to talk and learning to listen. These dangers include the following:

- Managers who think they know everything.<sup>293</sup> “Managers [who] mistakenly believe [that] they know everything [tend to] talk too much while listening too little.”<sup>294</sup> This results in one-sided communication “rather than a collaboration built of shared ideas, suggestions, and perspectives.”<sup>295</sup>
- Fear of punishment.<sup>296</sup> When a manager punishes employees for speaking candidly, he or she will shut down communication.<sup>297</sup> Managers should not “threaten, intimidate, [or] coerce employees into supporting their decisions.”<sup>298</sup> Nor should they “snap at employees, dismiss ideas quickly, or publicly ignore employee contributions.”<sup>299</sup>
- Employees who dominate discussions and prevent other employees from participating.<sup>300</sup> Organizations should find ways to encourage all employees to participate so that they do not miss out on the input of “employees who are less assertive or less willing to advocate for their ideas.”<sup>301</sup> Some techniques to try include giving assertive employees leadership roles so that they must listen rather than talk and “staffing teams so that less vocal employees with special expertise have a responsibility to speak up.”<sup>302</sup>
- “Meetings that are a waste of time.”<sup>303</sup> To reduce wasted time in meetings, set an agenda for each meeting, set a

---

<sup>293</sup> *Id.* at 158.

<sup>294</sup> Putnam, *supra* note 143.

<sup>295</sup> SEIFTER & ECONOMY, *supra* note 3, at 159.

<sup>296</sup> *Id.*

<sup>297</sup> *Id.*

<sup>298</sup> *Id.*

<sup>299</sup> *Id.*

<sup>300</sup> SEIFTER & ECONOMY, *supra* note 3, at 160.

<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

<sup>303</sup> *Id.*

time limit for each meeting (and strictly abide by it), carve out a set amount of time to discuss each topic, and make certain that all employees who must be there to ensure the conversation is productive are present.<sup>304</sup>

In sum, because “[h]ow well we communicate is not determined by how well we say things, but by how well we are understood,”<sup>305</sup> it is imperative that organizations find ways to help employees become skilled at both talking and listening.<sup>306</sup>

### G. Seek Consensus

Utilizing consensus decision-making on important decisions can result in the creation of stronger, more successful organizations.<sup>307</sup> Consensus derives from the Latin word for “shared thought.”<sup>308</sup> Contrary to popular misunderstanding, consensus does not require obtaining the absolute “agreement of every employee or internal constituency for every aspect of every decision.”<sup>309</sup> On the contrary, consensus means obtaining general or widespread agreement,<sup>310</sup> or more specifically, “a broad level of internal agreement on a specific issue by involving as many of the stakeholders as possible in the decision-making process.”<sup>311</sup> Not every person has to agree on everything. It is rare for any group of people to reach 100 percent agreement on important matters; consequently, aiming for general or widespread agreement is a more realistic goal for organizations.<sup>312</sup>

---

<sup>304</sup> Virginia K. Smith, *Stop Wasting Time in Meetings by Asking Yourself These Questions Ahead of Time*, Lifehacker, <https://lifelife.com/stop-wasting-time-in-meetings-by-asking-yourself-these-1824586635> (last visited Nov. 19, 2019).

<sup>305</sup> ANDREW S. GROVE, *HIGH OUTPUT MANAGEMENT* 71 (2d ed. 1995); SEIFTER & ECONOMY, *supra* note 3, at 161; BOB NELSON, *1001 WAYS TO TAKE INITIATIVE AT WORK* 89 (1999).

<sup>306</sup> SEIFTER & ECONOMY, *supra* note 3, at 160-61.

<sup>307</sup> *Id.* at 164.

<sup>308</sup> *Id.* at 163; Seifter, *supra* note 18, at 5.

<sup>309</sup> SEIFTER & ECONOMY, *supra* note 3, at 163.

<sup>310</sup> Collins Dictionary,

<https://www.collinsdictionary.com/us/dictionary/english/consensus> (last visited Nov. 19, 2019).

<sup>311</sup> SEIFTER & ECONOMY, *supra* note 3, at 163.

<sup>312</sup> *Id.* at 166.

Consensus building is important to decentralized organizations.<sup>313</sup> Achieving consensus on decisions becomes more important as more employees participate in an organization's decision-making processes and as the organization becomes more democratic and less autocratic.<sup>314</sup> "In an organization ... where positional power is minimal, and where leadership is not fixed, the ability of leaders to build consensus and to convince others to support their opinions is paramount. Without consensus, little can be accomplished in the organization."<sup>315</sup> Thus, in team-based organizations, consensus is crucial to making decisions.<sup>316</sup> "[C]onsensus decision making complements true teamwork by aiming to satisfy the greatest possible number of individuals representing the broadest possible range of constituencies."<sup>317</sup> Moreover, building consensus fosters "the free flow of ideas" and preserves "individual responsibility for product and quality."<sup>318</sup>

Consensus decision making requires an extraordinary degree of employee participation and trust.<sup>319</sup> Employees must be willing to listen to the views of others, be flexible, and be willing to compromise.<sup>320</sup> They must accept that decisions will not always go their way and that they must sometimes compromise on their own positions to accomplish organizational objectives.<sup>321</sup> Additionally, employees must suspend their disbelief when faced with an idea or a proposed solution to a problem.<sup>322</sup> Only then will each idea or proposed solution be thoroughly considered so the group may determine the best course of action.<sup>323</sup>

The broad range of input and information that becomes available to an organization as a result of the consensus building process permits organizations to synthesize innovative solutions.<sup>324</sup> However, without structured processes for building consensus, organizations may flounder when trying to "integrate the diverse input of knowledge

---

<sup>313</sup> *Id.* at 167.

<sup>314</sup> Seifter, *supra* note 18, at 5.

<sup>315</sup> *Id.* at 6.

<sup>316</sup> SEIFTER & ECONOMY, *supra* note 3, at 179-80.

<sup>317</sup> *Id.* at 166.

<sup>318</sup> *Id.* at 164.

<sup>319</sup> Seifter, *supra* note 19, at 5.

<sup>320</sup> SEIFTER & ECONOMY, *supra* note 3, at 166; Seifter, *supra* note 18, at 5.

<sup>321</sup> SEIFTER & ECONOMY, *supra* note 3, at 166; Seifter, *supra* note 18, at 5.

<sup>322</sup> SEIFTER & ECONOMY, *supra* note 3, at 169-70.

<sup>323</sup> *Id.*

<sup>324</sup> *Id.* at 164.

workers” into one solution.<sup>325</sup> If an organization struggles with synthesizing solutions, this may “undermin[e] employee morale, loyalty, and retention.”<sup>326</sup> On the other hand, organizations that seek consensus and have decision making processes in place that favor consensus will not only improve employee morale and increase employee retention rates, but they will improve their “ability to attract the best employees,” “increase[] worker participation in the decision-making process,” and have employees who are more invested in the company.<sup>327</sup>

### **1. Steps to Take When Putting This Principle Into Action**

Some assumptions for agreement that organizations should incorporate into their processes for consensus building concern communication and decision-making. First, “[b]road agreement about overall goals and objectives” is a must.<sup>328</sup> This agreement will provide consistent criteria for judging possible solutions to the disputes that will inevitably arise with regard to how best to achieve the organization’s goals and objectives.<sup>329</sup> Second, there must be “[u]niversal acceptance of the rules of the game.”<sup>330</sup> An organization will spend a great deal of time in developing decision-making processes, and employees must agree to be bound by these rules. Even though an employee may not completely agree with a decision, that employee must “respect[] the authority and responsibility of colleagues or teams” making that decision.<sup>331</sup> Third, open communication where the designated leaders solicit input and incorporate it into proposed solutions is needed.<sup>332</sup> Open communication provides employees with a sense of ownership over the decision.<sup>333</sup> Fourth, the organization must have a culture of

---

<sup>325</sup> *Id.* at 165.

<sup>326</sup> *Id.*

<sup>327</sup> SEIFTER & ECONOMY, *supra* note 3, at 165.

<sup>328</sup> *Id.* at 167.

<sup>329</sup> *Id.*

<sup>330</sup> *Id.*

<sup>331</sup> *Id.*

<sup>332</sup> SEIFTER & ECONOMY, *supra* note 3, at 167.

<sup>333</sup> *Id.* at 168.

mutual respect. Such a culture ensures widespread “acceptance of [the outcome of] decisions because everyone trusts the abilities and motivations of his or her colleagues and the integrity of [the] decision-making processes.”<sup>334</sup> Finally, the organization must embrace experimentation.<sup>335</sup> There should be few decisions that are “final,” or set in stone.<sup>336</sup> Decisions should be accepted on an experimental basis and employees should be free to reopen discussion when there is sufficient information with which to evaluate the decision.<sup>337</sup> On the other hand, the organization must also have conflict resolution methods in place for those occasions when consensus does not occur.<sup>338</sup> It must have clear guidelines and well-established mechanisms for resolving deadlock.<sup>339</sup>

## 2. Potential Pitfalls

While consensus building is essential to decision making in organizations where power is decentralized, there are several potential pitfalls to avoid.

- “Mistaking one dominant voice for consensus.”<sup>340</sup> All employees should have an equal voice in the decision-making process. When one employee dominates decisions or forces other employees to support an idea, the organization must intervene.<sup>341</sup> Explain to the dominant employee how his or her behavior is damaging the organization and other employees, describe the kind of behavior in which the employee should be engaging, and reward consensus-building behavior rather than unilateral decision making.<sup>342</sup>
- Lacking a clear organizational mission.<sup>343</sup> A mission gives decision making a purpose.<sup>344</sup> Without a clear mission,

---

<sup>334</sup> *Id.*

<sup>335</sup> *Id.*

<sup>336</sup> *Id.*

<sup>337</sup> SEIFTER & ECONOMY, *supra* note 3, at 168.

<sup>338</sup> *Id.* at 173.

<sup>339</sup> *Id.* at 165.

<sup>340</sup> *Id.* at 183.

<sup>341</sup> *Id.*

<sup>342</sup> SEIFTER & ECONOMY, *supra* note 3, at 183.

<sup>343</sup> *Id.* at 184.

<sup>344</sup> *Id.*

employees cannot conclusively identify an organization's goals, "much less whether or not the search for consensus on a particular issue has resulted in the best outcome for the organization."<sup>345</sup> Consensus occurs more readily between employees who share a purpose.<sup>346</sup> Most organizations that do not have a clear mission will have difficulty achieving consensus on a wide range of tasks, "from allocating resources to targeting costumers."<sup>347</sup>

- People talking too much and not listening enough.<sup>348</sup> Consensus cannot be achieved when employees are happy to talk but few people actually listen.<sup>349</sup> Employees can be encouraged to listen by asking questions of several employees in a non-threatening and supportive manner.<sup>350</sup> Furthermore, expressing interest in another person's opinion will increase the likelihood that others will pay attention to it.<sup>351</sup>

In sum, giving employees a stake in the organization by having them participate in strategic organizational decisions will motivate employees, earn their loyalty, and result in better decisions.<sup>352</sup>

## H. Dedicate Passionately to the Mission

For an organization to fully experience the benefits of collaborative management, the organization must have passionate employees who are motivated to create the best products and offer the best services possible.<sup>353</sup> "Passion is the spark that can make an ordinary organization great—and a great organization truly exceptional."<sup>354</sup> Passion inspires an organization's employees to remain motivated even in challenging times, to achieve more than

---

<sup>345</sup> *Id.*

<sup>346</sup> *Id.*

<sup>347</sup> SEIFTER & ECONOMY, *supra* note 3, at 184.

<sup>348</sup> *Id.*

<sup>349</sup> *Id.*

<sup>350</sup> *Id.*

<sup>351</sup> *Id.*

<sup>352</sup> SEIFTER & ECONOMY, *supra* note 3, at 185.

<sup>353</sup> *Id.* at 189.

<sup>354</sup> Seiffter, *supra* note 18, at 6.

employees at better-funded organizations, and to remain with an organization “even when offered greater pay or prestige elsewhere.”<sup>355</sup> Moreover, “[w]hen employees are passionate about the jobs they do [and] the organizations they work for, . . . they” can achieve remarkable levels of accomplishment.<sup>356</sup>

But how can an employer foster passionate dedication to the organization? First and foremost, it must provide for its employees’ human needs under Abraham Maslow’s hierarchy of human motivation.<sup>357</sup> Basic physiological needs, such as food, water, and shelter are situated at the bottom of the motivational pyramid.<sup>358</sup> At the top of the pyramid is self-actualization,<sup>359</sup> which represents the “growth of an individual toward fulfillment of the highest needs—those for meaning in life.”<sup>360</sup> Situated at the top of the pyramid, self-actualization is the most powerful motivational force, above safety and security, social belonging, and self-esteem.<sup>361</sup> Translated to the workplace, Maslow’s pyramid means that the higher a job is in the power hierarchy, the greater the individual’s motivation to excel in the position.<sup>362</sup> Salary and benefits provide the means for employees to satisfy their basic physical needs; a safe working environment provides security; teamwork promotes social interaction and belonging; and shared responsibility for creating a quality product cultivates individual self-esteem.<sup>363</sup> When individuals experience self-

---

<sup>355</sup> SEIFTER & ECONOMY, *supra* note 3, at 199-200.

<sup>356</sup> Seifter, *supra* note 18, at 6.

<sup>357</sup> See SEIFTER & ECONOMY, *supra* note 3, at 188.

<sup>358</sup> Lewis D. Solomon, *On the Frontier of Capitalism: Implementation of Humanomics by Modern Publicly Held Corporations: A Critical Assessment*, 50 WASH. & LEE L. REV. 1525, 1629 (1993); Psychology Today, Ann Olson, *The Theory of Self-Actualization*, <https://www.psychologytoday.com/us/blog/theory-and-psychotherapy/201308/the-theory-self-actualization> (last visited June 28, 2018) [hereinafter *The Theory of Self-Actualization*]. PSYCHOLOGY TODAY (Aug. 13, 2013); <https://www.psychologytoday.com/us/blog/theory-and-psychotherapy/201308/the-theory-self-actualization>; SEIFTER & ECONOMY, *supra* note 3, at 188.

<sup>359</sup> Solomon, *supra* note 358, at 1630; *The Theory of Self-Actualization*; Olson, *supra* note 358.

<sup>360</sup> *The Theory of Self-Actualization*; Olson, *supra* note 358. SEIFTER & ECONOMY, *supra* note 3, at 188.

<sup>361</sup> *The Theory of Self-Actualization*; Olson, *supra* note 358. SEIFTER & ECONOMY, *supra* note 3, at 188.

<sup>362</sup> SEIFTER & ECONOMY, *supra* note 3, at 188.

<sup>363</sup> *Id.*

actualization in the workplace, they view work as their unique contribution to the world or their way to leave their mark on the world.<sup>364</sup> The opportunity to achieve meaning in life causes them to want to perform at their highest level—to strive passionately to be “the best they can be.”<sup>365</sup> “When knowledge workers, in particular, can see—and are recognized for—their personal imprints on their organization’s products and success, they perform at their highest levels.”<sup>366</sup>

Helping employees to achieve self-actualization is a macro approach to fostering passionate dedication to the organization. Some practical ways to accomplish this include having a mission that employees have played an active role in creating or revising; hiring employees who believe in the organization’s mission as well as the organization’s purposes and objectives; rewarding passionate commitment to that mission; and cultivating an atmosphere of enthusiasm and eagerness about work.<sup>367</sup>

### 1. Steps to Take When Putting This Principle into Action

Orpheus identifies three steps an organization should take to foster passionate dedication to the organization and to help

---

<sup>364</sup> *Id.*

<sup>365</sup> *Id.*

<sup>366</sup> *Id.* at 189. Another benefit of employees achieving self-actualization is that it improves the performance of other employees. *Id.* at 58. As Seifter and Economy stated, “The challenge of working with other people of similar qualities, people who are highly self-motivated, who work well in a structured an unstructured environment and who are very smart raises your game. It raises everybody’s game.” *Id.* at 58.

<sup>367</sup> SEIFTER & ECONOMY, *supra* note 3, at 200. For Orpheus, “passionate dedication begins with the music itself.” *Id.* at 190. While Orpheus has a clear mission, which is “finding the chamber music heart of orchestral repertoire,” “[i]f the members felt that having a conductor would bring the finest level of expression and interpretation [of the music], then they would hire a conductor.” *Id.* By tying its strategic objectives and goals to its mission, Orpheus enhances employee motivation. *See id.* at 191. While Orpheus’s mission has not changed since its inception, its “strategic objectives and goals continually evolve from the ground up, based on input from orchestra members, trustees, and administrators.” *Id.* Thus, Orpheus’s mission allows it to put self-actualization at the heart of its business plan. *Id.*

employees achieve self-actualization.<sup>368</sup> With regard to having a mission that employees play a role in creating or modifying, the first step that must be undertaken is to have a mission.<sup>369</sup> Before an organization can enjoy the benefits of collaborative management, the organization must have a mission that its employees can dedicate themselves to.<sup>370</sup> A mission that employees buy into can create a shared sense of purpose and greatly motivate the workforce even in difficult times.<sup>371</sup> Thus, if an organization does not have a mission, it should create one.<sup>372</sup> Further, the organization must ensure that employees play a role in creating a mission or in modifying an already existing mission.<sup>373</sup> When employees have a shared sense of purpose and “rally around a company’s mission,” they will go far beyond simply fulfilling their job duties.<sup>374</sup> They will be motivated to draw upon their creativity and reserves of energy to achieve higher levels of performance.<sup>375</sup> However, a mission statement that is imposed from above generally will not inspire passionate dedication from employees.<sup>376</sup> The mere existence of a mission statement will not ensure that employees commit to it.<sup>377</sup> Employees will not be personally invested in a mission statement when they did not have a say in deciding the trajectory the organization should take.<sup>378</sup> While top management should set the tone and establish the mission, getting input from employees will increase their passion for the mission and the organization’s goals.<sup>379</sup>

The third measure an organization should take to ensure its employees’ passionate dedication to its mission is to “live” its

---

<sup>368</sup> *Id.* at 200-02.

<sup>369</sup> *Id.* at 200.

<sup>370</sup> *Id.* at 189.

<sup>371</sup> *Id.*

<sup>372</sup> *Id.* at 200; SEIFTER & ECONOMY, *supra* note 3, at 200. If it does not have the time to create one itself, the organization should hire a consultant to help with the process. *Id.*

<sup>373</sup> SEIFTER & ECONOMY, *supra* note 3, at 201. *Id.* at 201.

<sup>374</sup> *Id.* at 200.

<sup>375</sup> *Id.*

<sup>376</sup> *Id.* SEIFTER & ECONOMY, *supra* note 3, at 201. “Imposed from above” means created by one person or a small group of managers at the top of the organization’s power hierarchy. *Id.* at 201.

<sup>377</sup> *See id.* (“Mission statements created by one person at the top often don’t work because employees who aren’t involved in deciding an organization’s direction are usually not personally invested in the outcome.”).

<sup>378</sup> *Id.* at 201.

<sup>379</sup> Putnam, *supra* note 142.

mission.<sup>380</sup> Consistency in message and action is crucial to obtaining employee buy-in.<sup>381</sup>

## 2. Potential Pitfalls

Several potential pitfalls exist when trying to guarantee that employees are passionately dedicated to the organization's mission. These dangers include the following:

- Imposing a mission on employees from above.<sup>382</sup> The mere existence of a mission statement will not ensure that employees commit to it.<sup>383</sup> Employees will not be personally invested in a mission statement when they did not have a say in deciding the trajectory the organization should take.<sup>384</sup> Mission statements function best when *all* members of an organization are involved in their creation or modification.<sup>385</sup> When employees are a part of a process that seriously considers their input, they will be invested in the organization and dedicated to its mission.<sup>386</sup> While top management should set the tone and establish the mission, getting input from employees will increase their passion for the mission and the organization's goals.<sup>387</sup>
- Management only paying lip service to the mission.<sup>388</sup> If management espouses one way of conducting business but behaves in a manner that contradicts or undermines the organization's mission, employees will perceive that the mission is irrelevant or simply a public relations ploy.<sup>389</sup> This will damage employee buy-in and seriously dampen employee passion.<sup>390</sup> Management cannot follow one set

---

<sup>380</sup> SEIFTER & ECONOMY, *supra* note 3, at 200.

<sup>381</sup> Putnam, *supra* note 142.

<sup>382</sup> SEIFTER & ECONOMY, *supra* note 3, at 201.

<sup>383</sup> *Id.*

<sup>384</sup> *Id.*

<sup>385</sup> *Id.* at 203.

<sup>386</sup> *Id.*

<sup>387</sup> Putnam, *supra* note 142.

<sup>388</sup> SEIFTER & ECONOMY, *supra* note 3, at 203.

<sup>389</sup> *Id.*

<sup>390</sup> *Id.* at 203.

of rules and expect employees to follow another.<sup>391</sup> Employees will withdraw support for an organization's mission when management's actions contradict the words and spirit of the mission statement.<sup>392</sup>

- Raising employee expectations only to deflate them.<sup>393</sup> Organizations should exercise restraint when introducing “new management practices and policies in [an] attempt to increase productivity and teamwork, or to accomplish the latest company priority.”<sup>394</sup> “Change for the sake of change is seldom wise.”<sup>395</sup> Injudicious organizations that frequently impose new business practices and policies risk exhausting employee energy and enthusiasm and losing employee engagement.<sup>396</sup> An incessant barrage of new business styles will cause employees to become jaded with regard to constant changes in management style, and employee morale will plummet.<sup>397</sup> Before introducing a new management style, an organization should make certain that the change is likely to have lasting impact on the organization and its employees.<sup>398</sup>
- “Forgetting to have fun at work.”<sup>399</sup> While it is true that “work is serious business,”<sup>400</sup> it is equally true that “all work and no play makes Jack a dull boy.” “[H]umor, fun, and play positively impact workplace productivity, improving morale and retention, and also enhancing customer relations and satisfaction.”<sup>401</sup>

In sum, “[p]assionate employees make the bottom-line difference; without them, even the best-trained, well-equipped, and generously funded companies” will flounder.<sup>402</sup> Moreover, every employee has a

---

<sup>391</sup> Putnam, *supra* note 142.

<sup>392</sup> SEIFTER & ECONOMY, *supra* note 3, at 201, 203.

<sup>393</sup> *Id.*

<sup>394</sup> *Id.*

<sup>395</sup> Putnam, *supra* note 142.

<sup>396</sup> SEIFTER & ECONOMY, *supra* note 3, at 203.

<sup>397</sup> *Id.*

<sup>398</sup> *Id.*; Putnam, *supra* note 142.

<sup>399</sup> SEIFTER & ECONOMY, *supra* note 3, at 203.

<sup>400</sup> *Id.*

<sup>401</sup> SEIFTER & ECONOMY, *supra* note 3, at 203.

<sup>402</sup> Putnam, *supra* note 142.

passion to do their job well—the challenge is to tap into that passion and channel it in useful and constructive ways.<sup>403</sup>

## I. Summary

The Orpheus Process's record of success is undeniable. The Orpheus Chamber Orchestra has performed countless times, produced numerous musical recordings, and won a Grammy Awards.<sup>404</sup> It is widely considered to be one of the world's great orchestras.<sup>405</sup> Its mode of collaborative leadership has also been widely studied by educational and business institutions.<sup>406</sup>

As collaborative management and self-directed teams have come to play increasingly prominent roles in knowledge organizations of all kinds, the influence of the Orpheus Process has been far reaching.<sup>407</sup> The Orpheus Process is a new model of management that organizations can use to help their employees thrive in collaborative management environments.<sup>408</sup> The Orpheus Process is a system that

---

<sup>403</sup> SEIFTER & ECONOMY, *supra* note 3, at 204. Harvey Seifter, the Executive Director of the Orpheus Chamber Orchestra, acknowledges that the passions held by Orpheus musicians

sometimes boils over, causing more than a few arguments and heated exchanges. According to violist Nardo Poy in *The Problem Solving Journey*, “There are times in rehearsal, because of the way we work, the intensity, the directness, often we do get pretty emotional, angry at each other. And yet, when our rehearsal is over, that’s pretty much it, for the most part it’s over. Either right after rehearsal or the next day, you’re still friends.” Because musicians in Orpheus feel free to express themselves with one another, resentments and feuds rarely have an opportunity to develop. This results in an environment where all the members of the organization are focused on one thing: producing the very best product possible.

Seifter, *supra* note 18, at 6.

<sup>404</sup> *History*, *supra* note 17; *Orpheus Chamber Orchestra*, *supra* note 1; RECORDING ACADEMY GRAMMY AWARDS *supra* note 3.

<sup>405</sup> Seifter, *supra* note 18, at 1.

<sup>406</sup> *See supra* p. 3.

<sup>407</sup> SEIFTER & ECONOMY, *supra* note 3, at 206.

<sup>408</sup> *Id.*

has proven its ability to balance individual employee freedom and the necessity “of cooperation in a variety of challenging achievement-oriented environments.”<sup>409</sup> It is exceptional at helping organizations augment their capacity to successfully and efficiently manage complexity by empowering individual workers; helping individuals to navigate group process decision making and maximize their impact on team decisions, and helping organizations improve employee morale, retention, and productivity by creating a sense of “ownership.”<sup>410</sup> And while Orpheus recognizes that its model may not work for all organizations,<sup>411</sup> it adamantly believes that elements of the Orpheus Process are applicable to most organizations, particularly those organizations that are relatively small with low turnover, such as educational organizations.<sup>412</sup>

#### **IV. Tips for Law Schools Transitioning from a Directed Legal Writing Program to a Collaborative Program**

A law school’s adoption of the Orpheus Process and its core principles can help facilitate a smooth transition of power and authority from a director-led legal writing program to a collaborative leadership model where all the legal writing faculty share duties and responsibility for the legal writing program. Moreover, planning to avoid the pitfalls identified by the Orpheus Chamber Orchestra will make the transition easier and more efficient.

When responsibilities are shifted and shared more broadly, it is necessary for the program planners, now a broader group including all legal writing faculty, to think ahead and to plan more strategically. The legal writing faculty should try to foresee problems that might arise during the transition process and beyond and take action to circumvent those problems. This can be done by recognizing the hazards identified by Orpheus and discussing the transition with legal

---

<sup>409</sup> *Id.*

<sup>410</sup> *Id.* at 206-07.

<sup>411</sup> For instance, Orpheus acknowledges that its model may not be workable for orchestras “exceeding 40 or 50 musicians.” Lubans, *supra* note 60, at 7. Such an orchestra’s size would make it too complex for the Orpheus model since the distance between seats would “interrupt the required intimacy and congest the sight lines.” *Id.* Moreover, while the Orpheus “concept is scalable, it does require segmentation of larger work groups into self-managed teams of reasonable size.” Bowen and Fretwell, *supra* note 21, at 5. Moreover, the Orpheus model would not work well for an organization, committee, or team with anticipated high turnover. *Id.*

<sup>412</sup> Lubans, *supra* note 60, at 7.

writing faculty from other law schools who have already made such a transition.

Below are some tips for law schools transitioning from a director-led legal writing program to a collaborative one. These tips address each of the core principles of the Orpheus Process in the context of a legal writing program that is transitioning from a traditional leadership model to a more collaborative one and identify considerations to take into account during that process. Other tips address how to avoid the common pitfalls associated with the shift from a director-led legal writing program to a collaborative one.

### **A. Putting Power in the Hands of the Legal Writing Faculty, the People Doing the Work**

The Orpheus Process identifies its first main principle as putting the power in the hands of the people doing the work. In the context of a legal writing program transitioning from a director-led program to a program with a more collaborative management model, the legal writing faculty must first determine how much and what type of autonomy they want.

There are several ways in which legal writing faculty can begin to act collaboratively. The legal writing faculty must decide in what areas they want flexibility and the degree of autonomy they desire. Do they want administrative autonomy where legal writing faculty can interact directly with the law school and university administrations and administrative duties are shared by members of the group? Or do they want a rotating coordinator who takes care of those administrative tasks? Do they want complete pedagogical autonomy, some degree of collaboration on pedagogical issues, or to be coordinated on pedagogical issues? Do they want both pedagogical and administrative flexibility? Or some combination of autonomy and coordination with regard to administrative and pedagogical responsibilities? These are not easy questions, but they are foundational questions that must be resolved before the transition process can take place.

When determining the degree of autonomy the legal writing faculty desires, one consideration is that transitioning to a collaborative program with no coordinator will result in more responsibility for each legal writing faculty member without a commensurate award of money or time. Adding administrative and/or pedagogical responsibilities on top of a full teaching load

means that a faculty member will have a lot of additional work to complete in the same amount of time. And that faculty member will not be paid any more money for it. Nor will he or she likely receive course relief. The same is true, but to a lesser degree, with regard to programs that have a rotating coordinator but decide to disperse some of the administrative responsibilities among all legal writing faculty. This is a consideration that the legal writing faculty must take into account when deciding whether to transition to a collaborative program and something that the faculty will have to come to terms with if it decides to transition to a more collaborative management model.<sup>413</sup>

### **1. Pedagogical Autonomy Versus Coordination**

The legal writing faculty must decide how much academic freedom they want on pedagogical issues. Do they want complete academic freedom to decide what they teach, how they teach it, what textbooks to use, what assignments to give, what deadlines to have, how many assignments to grade, etc.? Or do they wish to coordinate on some of these pedagogical issues? If so, which ones? For example, the legal writing faculty may decide that it wants complete autonomy on all pedagogical issues. Conversely, the legal writing faculty may decide that it wants to maintain uniformity across professors with regard to the skills taught, but that faculty have flexibility with regard to how they teach those skills, what textbooks to use, what assignments to give, what assignments to grade, etc. Or, the legal writing faculty might decide that it wishes to maintain uniformity with regard to textbooks and/or assignments, whether it be that all professors use the same assignments or require the same types of assignments. The legal writing faculty should decide the extent of academic freedom they desire on pedagogical issues *before* approaching the administration about transitioning to a collaborative program rather than a director-led one. Deciding this issue before approaching the administration will allow the legal writing faculty to present a unified vision to the administration and put them in a better negotiating position.

How does the legal writing faculty decide which programmatic, or pedagogical decisions, will be made independently by each faculty member and which decisions will be decided collaboratively? There is

---

<sup>413</sup> The unanticipated level of work was an issue encountered both by the legal writing faculty at Mercer University School of Law and the University of San Diego when they transferred to a directorless program. See Temm, *supra* note 42.

no easy answer to this question, and it depends on a number of considerations. For example, the more experienced the legal writing faculty, the less pedagogical coordination is needed. However, if class sizes are large, the legal writing faculty may opt for uniformity with regard to assignments to reduce the need for each professor to create a different writing assignment(s) each year. Another consideration may be the atmosphere at the law school or employer expectations. For instance, if the law school administration or local employers have been outspoken about the citation manual that is being used to teach legal citation, the legal writing faculty may choose to coordinate with regard to the citation manual (*e.g.*, requiring that all faculty use *The Bluebook* rather than the *ALWD Citation Guide*) to avoid backlash.

## **2. Administrative Autonomy Versus Coordination**

In addition to the desired degree of pedagogical autonomy, the legal writing faculty will also need to consider whether they wish to have administrative autonomy or coordination. Administrative autonomy allows each member of the legal writing faculty to interact directly with the law school and university administrations on a number of issues. Traditionally, these administrative responsibilities include interacting with the law school and university administrations on scheduling; curriculum; course credits; student assessment; advising; hiring and staffing; faculty evaluations; status issues arising within the law school; law school and undergraduate accreditation reviews; and issues concerning the law library, moot court, and law review. Administrative duties may also include updating course descriptions and the legal writing curriculum on the website; speaking at pre-law advisor meetings, coordinating student legal writing awards, and voting on the best legal writing programs by filling out the U.S. News and World Report ballot.

Another administrative responsibility may be interacting with the national legal writing community. This traditionally includes communicating on behalf of the law school with the national legal writing community via surveys and questions on the listservs and serving as an ALWD delegate. At some law schools, the director of the legal writing program is also expected to play a role in national legal writing institutions, such as the Legal Writing Institute (“LWI”) or the Association of Legal Writing Directors (“ALWD”), and by hosting legal writing conferences.

The legal writing faculty will have to decide how much administrative autonomy it desires. It will either have to divide the administrative responsibilities among all the members of the legal writing faculty or decide to have a rotating coordinator who handles some or all of the administrative responsibilities identified above. As with academic freedom on pedagogical issues, the legal writing faculty should decide this issue prior to approaching the administration about transitioning to a collaborative program. While the extent of administrative autonomy to be given to each faculty member likely cannot be resolved without input from the administration, if the legal writing faculty presents a unified vision to the administration, this should put them in a stronger negotiating position.

### **3. Authority to Complete Delegated Duties**

In addition to deciding the type and amount of autonomy that is desired by the legal writing faculty when transitioning to a collaborative leadership model, the legal writing faculty will also need to think through some other considerations; one being how to ensure that each faculty member is given the necessary authority to complete his or her delegated duties.

To facilitate the necessary grant of authority, the legal writing faculty must first identify the kinds of actions that will be needed to ensure the legal writing program continues to be successful without the director. They will also need to identify who will be responsible for carrying out those actions and whether additional authority is needed by that faculty member to successfully complete the job. Moreover, the legal writing faculty will need to identify whose help will be needed and if the faculty member taking over the duty will require an additional grant of authority over those individuals. Moreover, when an important responsibility has been shifted to a new faculty member—and it carries with it a necessary obligation and an anticipated expense—the group should try to anticipate what might happen in the years ahead and put together a forward-looking plan of action to persuade the law school administration to continue to meet that responsibility. Finally, this information will need to be brought to the administration's attention in a formal way, say a memorandum.

#### 4. Pitfalls

##### a. Overcoming the Hierarchical Leadership Model

With regard to the hierarchical model of leadership, Orpheus warned that “old habits die hard, and . . . it is far more difficult to undo years of hierarchy than you think.”<sup>444</sup> Though the law school administration may theoretically embrace the legal writing program’s new collaborative management model, when confronted with the day-to-day realities of operating within this collaborative process, the administration may struggle with breaking away from the hierarchical model of leadership.

There are numerous contexts where a legal writing program that is transitioning to a collaborative management model, or that has already transitioned to such a model, may encounter remnants of the traditional hierarchical way of thinking about management and leadership. Take for example where the law school hires a new dean after the law school administration and the legal writing faculty have agreed to abolish the director position and begun the transition to a completely collaborative management model (or completed it!).<sup>445</sup> This new dean simply cannot understand why there is no director or coordinator, no matter how many times the benefits of a collaborative program are explained to him or her. Because the dean does not know the legal writing faculty well, and consequently has not learned to trust in their expertise and professionalism,<sup>446</sup> he or she wishes to return to a director-led program and makes his or her wishes and efforts in that regard well known. Such a scenario would have a terrible effect on the morale of the legal writing faculty and could impact their job performance in terms of willingness to voluntarily take on additional duties. It could also result in the loss of legal writing faculty, who leave to take positions at other law schools or decide to return to practice.

---

<sup>444</sup> SEIFTER & ECONOMY, *supra* note 3, at 39.

<sup>445</sup> The examples of pitfalls identified in this section are loosely based on the author’s experiences when the legal writing program at the law school where she worked transitioned from a program that was managed by a permanent coordinator to a collaborative one, the experiences of legal writing faculty at other law schools that made a similar transition, and hypothetical scenarios.

<sup>446</sup> This may also occur if the legal writing faculty clash with the dean.

Another example is a new dean who simply cannot compute the fact that there is no director or coordinator and so erroneously refers to one legal writing faculty member, say Jane Doe, as the director of the legal writing program. The dean not only refers to Professor Doe as the director when speaking to constituencies within the law school but also when speaking to constituencies from outside the law school, such as pre-law advisors, the board of visitors, the university president, or even the ABA site team. The dean did not consciously decide to incorrectly refer to Professor Doe as the director of the legal writing program; the dean's subconscious seized on the fact that Professor Doe was the director of the law school's upper-level writing courses and conflated that with being the director of the core legal writing program. That there is no one "boss" of the legal writing program runs contrary to accepted leadership practices as the dean knows them,<sup>417</sup> and he or she is literally unable to conceptualize a legal writing program where all the faculty members are the leaders. To this new dean, "somebody ha[d] to be in charge; otherwise it's anarchy, a cacophony going nowhere."<sup>418</sup>

Another example where the hierarchical management model rears its ugly head and fights to survive is with regard to communication with the legal writing faculty in the absence of a director or coordinator.<sup>419</sup> Say that the associate dean struggles with no longer having one individual to go to when issues regarding the legal writing program arise.<sup>420</sup> While the associate dean could speak with whichever faculty member was responsible for specific duties that coincided with whatever issue had arisen, he or she is frustrated

---

<sup>417</sup> See Lubans, *supra* note 60, at 5 (recognizing the commonly held belief: "That there's no boss runs contrary to accepted 'best' practice in the autocratic music world and the corporate realm: somebody has to be in charge; otherwise it's anarchy, a cacophony going nowhere.").

<sup>418</sup> *Id.* at 5.

<sup>419</sup> Though Orpheus warns of the need for a clear point of contact for those outside the institution, SEIFTER & ECONOMY, *supra* note 3, at 84, certainly the same need must exist for the law school and university administrations, which essentially function in the role of upper management. Moreover, though Orpheus warns of the need for a clear point of contact with regard to the principle of creating clarity of roles, this problem seems to the author to arise due to the associate dean's struggle with breaking away from the hierarchical model of leadership.

<sup>420</sup> The struggling individual could just as easily be the dean of the law school; a chair of a law school committee, such as the curriculum committee; or the head of a law school department, such as the career services office or admissions.

by not having one person with whom to discuss legal writing related issues. This frustration is sometimes the result of the associate dean's inability to recall in the heat of the moment which faculty member has been assigned a particular duty. At other times, the frustration is due to the fact that the issue that has arisen does not correspond with any of the assigned duties. And at still other times, the associate dean's frustration is the consequence of his or her desire for greater efficiency. Regardless, the associate dean does not know who to talk to in these scenarios and is annoyed and frustrated.

Another pitfall that a legal writing program may encounter when transitioning to a collaborative program is the law school administration's<sup>421</sup> desire to have one person speak on behalf of the entire group of legal writing faculty as did the director or coordinator.<sup>422</sup> After years of receiving seemingly definitive answers on legal writing matters from the director or coordinator, it may be difficult for the administration to view the members of the legal writing faculty as individuals with differing thoughts and opinions as opposed to a hive mind.<sup>423</sup> The administration may also exacerbate the "problem" by questioning whether everyone was in agreement and exploring those areas where there is disagreement, even when the legal writing faculty reach a decision based on consensus. As a result of this expectation that all legal writing faculty agree on a position or an outcome, the administration may experience frustration when legal writing faculty members express differing opinions in meetings.<sup>424</sup> When legal writing decisions are made based on

---

<sup>421</sup> This could be the administration, the chair of a law school committee, or even other non-legal writing faculty members in a faculty meeting.

<sup>422</sup> Though Orpheus identifies this concern in relation to making decisions by achieving consensus, this problem seems to the author to arise due to the administration's inability to let go of the traditional hierarchical model of leadership.

<sup>423</sup> *Hive Mind*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/hive%20mind> (defining "hive mind" as "the collective thoughts, ideas, and opinions of a group of people . . . regarded as functioning together as a single mind").

<sup>424</sup> Despite the fact that it can frustrate the administration, it can also be helpful for members of the legal writing faculty to publicly disagree with each other (politely!) to reinforce the idea to the rest of the faculty that they are each professors with individual opinions. (Like the Torts or Contracts professors—no one expects them to agree on everything!)

consensus rather than unanimity, the administration may not know what to do with those decisions or how to treat them. They may grapple with the fact that legal writing faculty are individuals with their own opinions. Conversely, while it is undoubtedly a good thing to explore all options, such behavior on the part of the administration will negatively affect the morale of the legal writing faculty as it suggests that the administration does not trust the judgment of the legal writing faculty since they could not agree unanimously on a decision, a standard that other faculty are not held to.

Despite the fact that these four scenarios are holdovers of the traditional hierarchical way of thinking about management and leadership, they not only will result in aggravating the administration and damaging the morale and job performance of the legal writing faculty, but they will also make the transition to a collaborative program more difficult. These problems can be avoided in one of two ways. The first way is to have a rotating coordinator who handles administrative duties and interacts with the law school and university administrations. Another way is to simply assign the responsibility for dealing with the law school's and university's administration to one particular faculty member and inform the administration that this faculty member is the point of contact with the legal writing faculty. That faculty member can meet with the administration to learn of the issues, come back to the legal writing faculty to discuss the issues, get input from the other legal writing faculty, and reach a decision that the point of contact then conveys to the administration. Having a single point of contact with the administration might also result in a better culture of trust in the legal writing faculty's decisions and make it easier for the administration to accept the decisions of the legal writing faculty that are based on consensus. Perhaps receiving decisions from a single familiar person each time would subconsciously impact the administration and make it easier for it to accept consensus decisions as though they were the unanimous decisions of the legal writing faculty. Giving the administration one person to contact will make the transition from the old model of hierarchical management to the new collaborative model much easier.

#### **b. The Failure to Assign Authority to Complete Delegated Duties**

When responsibility for a signature program shifts, the law school administration must grant to faculty members the authority to do their jobs. The failure to grant the needed authority can result in

faculty making decisions that are pedagogically unsound or less sound in order to avoid the frustration that comes with lacking the authority to do the job properly or in the way that the faculty member believes best. It can also result in an individual faculty member refusing to any longer be responsible for certain administrative duties or in all faculty refusing to take on the problematic responsibility. Finally, it can result, or at least contribute to, a faculty member leaving the institution.

There are numerous ways in which the failure to assign authority to complete delegated duties might arise. One example is where a law school administration had expected the director of the legal writing program to represent the school in national legal writing organizations such as LWI and ALWD. The director had served on the board of LWI, which position required the director to attend LWI Board meetings and LWI Retreats, and the law school administration had always approved travel for that purpose and reimbursed those expenses. The legal writing program then abolished the director position in favor of a more collaborative leadership model. One of the legal writing faculty members was elected president of LWI and approached the law school administration about the travel requirement prior to accepting the position. The law school administration agreed in writing to pay for travel expenses related to attending board meetings and retreats for those faculty serving on the LWI Board. However, when the faculty member later requested reimbursement for travel expenses associated with attending the LWI Board meeting, the law school balked and refused to pay those travel expenses on the grounds that the faculty member had not presented at the LWI conference as required by the recently altered faculty travel policy. The faculty member then reminded the administration of its prior agreement, and it agreed to reimburse her.

The next year, the administration refused to approve travel for the additional day that the faculty member needed to be at the national organization's conference to attend the board meeting. The faculty member was presenting at the conference as required by the law school's new travel policy, but she was scheduled to present on the last day of the conference and the LWI board meeting was scheduled for the day before the conference began. She then reminded the administration of its obligation, and it approved the travel request. This process, though, required the faculty member to engage in additional work to get the travel approved and caused needless frustration. Furthermore, these two occurrences made the faculty

member feel as though the administration was being disingenuous and purposefully trying to weasel out of its agreement to reimburse travel.

So what strategy should the legal writing faculty have employed at the start of the transition process to hopefully avoid such a scenario? The faculty in the above scenario were correct in having the administration put its obligations in writing. But they also should have planned for the possibility that there would be a downturn in the economy that might result in the law school adopting a new, more restrictive travel policy. Part of that planning would have been to approach the law school about what such a travel policy might look like and to include in the written document not only the administration's obligations but also what would be expected of the legal writing faculty under this new policy. Then, if and when the policy changes, everyone has a sense of what is expected of them. The administration will not appear to be trying to weasel out of paying for travel expenses that it agreed to pay, and the legal writing faculty will not look like they are trying to be treated differently from the rest of the faculty.

Furthermore, if the law school administration needs additional convincing to grant the needed authority for a faculty member to successfully complete his or her responsibilities, then the legal writing faculty should use business management principles, such as those presented by the Orpheus Process, to support their arguments that the administration needs to grant them that authority. Using business jargon and sound business principles to support your position will make it clear to the administration that such authority really is necessary and is not just the faculty member whining or making excuses for his or her inability to get the job done successfully. Presenting these business principles will hopefully convince the administration that the faculty member's complaints and frustration are justified.

### **B. Encourage Individual Responsibility for Product and Quality**

Orpheus identifies the second core principle of the Orpheus Process as encouraging individual responsibility for product and quality. In the context of a legal writing program transitioning from a hierarchical management model to a cooperative one, the collaborative management approach is designed to mine the skills and abilities of all the legal writing faculty and to create buy-in from that faculty concerning decisions about the legal writing program

(since they all had a say in deciding the trajectory of the program and in making decisions on how to get there). By entrusting pedagogical decisions and administrative responsibilities to each individual legal writing faculty member, a collaborative approach encourages the faculty to take personal responsibility for the success, not just of their individual classes and individual areas of administrative responsibility, but the overall success of the legal writing program as a whole.

The law school administration can foster a culture of individual responsibility in several ways. The administration must allow the legal writing faculty to define the outcome that is right for them and their program.<sup>425</sup> Allowing the faculty to reach their own decisions with regard to the legal writing program will give the faculty a sense of ownership over the program and the decisions they make.<sup>426</sup> Further, the administration should hold the faculty accountable for the decisions they make, both the good and the bad.<sup>427</sup> Finally, the administration should reward faculty members who take responsibility for the quality and output of the legal writing

---

<sup>425</sup> See SEIFTER & ECONOMY, *supra* note 3, at 59. Orpheus musicians shape the orchestra's outcomes by selecting the repertoire to be played at performances, shaping the design and interpretation of that musical program, and improving the quality of their performance by selecting team leaders and offering suggestions and criticism. *Id.*

<sup>426</sup> See *id.* at 59. Granting the Orpheus musicians control over the repertoire and the quality of the orchestra's performance gives each musician a sense of ownership over the whole group's performance, not just the individual musician's performance. *Id.* at 44. "If an Orpheus concert is great, then each musician knows that he or she played a vital role in making it great; if the performance is poor, then each member knows that he or she played a role in that outcome as well." *Id.* at 44. Moreover, Orpheus provides its musicians with a sense of ownership by allowing them to be members for life, like tenured professors, so long as they remain active and engaged participants and by investing surpluses in equitably distributed increased compensation to the people who create their products. *Id.* at 52.

<sup>427</sup> See *id.* at 60. With regard to holding employees accountable for their decisions, Orpheus bypasses blame assessment and focuses on improving future performance. *Id.* at 49. It does not allow problem solving to degenerate into finger-pointing. *Id.* Orpheus considers learning from mistakes the better approach rather than punishment. *Id.*

program.<sup>428</sup> Rewarding the legal writing faculty for excellence when they have taken on a substantial measure of individual responsibility for the success of the program and their efforts have resulted in success will give them a reason to take on additional personal responsibility.<sup>429</sup> Rewards may come in many forms, such as teaching or scholarship awards, research stipends, allowing faculty to attend a conference that otherwise would not have been approved, or course relief.

A potential pitfall is a culture that fails to hold employees accountable for their actions.<sup>430</sup> This can be failing to hold a faculty member accountable for a bad decision or failing to reward them for good decisions. The law school administration cannot “inspire excellence or earn loyalty if [it does] not require accountability.”<sup>431</sup> Doing so only invites mediocrity.<sup>432</sup>

Another potential hazard that may arise is complacency, or faculty members who are happy with the status quo and who refuse to accept personal responsibility for the legal writing program.<sup>433</sup> These faculty members will avoid taking risks to improve the legal writing.<sup>434</sup> They will shy away from new, innovative endeavors despite the fact that, to be competitive, the law school must anticipate trends in education to appeal to prospective students and successfully produce prepared lawyers.<sup>435</sup>

The administration may avoid these two potential pitfalls by holding the legal writing faculty accountable for good and bad actions. Rewarding good decisions and actions will go a long way toward encouraging employees to strive for innovation and excellence.

---

<sup>428</sup> See *id.* at 61. Orpheus rewards its musicians in two ways. First, Orpheus musicians are members for life, like tenured professors, so long as they remain active and engaged participants. Second, Orpheus invests surpluses in equitably distributed increased compensation to the people who create their products. *Id.* at 52.

<sup>429</sup> See *id.* at 44, 58. “Freed from the fear of losing their jobs if they speak their minds and encouraged by the very real impact they can have on the organization and the quality of its products, [Orpheus] musicians willingly take on extraordinary levels of individual responsibility. *Id.* at 52.

<sup>430</sup> SEIFTER & ECONOMY, *supra* note 3, at 62.

<sup>431</sup> *Id.*

<sup>432</sup> *Id.*

<sup>433</sup> Putnam, *supra* note 142.

<sup>434</sup> *Id.*

<sup>435</sup> SEIFTER & ECONOMY, *supra* note 3, at 63.

### C. Create Clarity of Roles

The third principle of the Orpheus Process is creating clarity of roles. In the context of a legal writing process that is transitioning from a director-led program to a collaborative one, there are several steps that the legal writing faculty must take. First, during the transition process, once the legal writing faculty have divided up the administrative responsibilities that previously belonged to the director or coordinator, they should create a list indicating who is to do what tasks. The legal writing faculty should then share that list with the administration and other offices in the law school that have a need for such information (such as the registrar or the law librarians). Such a list will facilitate communication between the legal writing program and other divisions of the law school.

Moreover, the legal writing faculty should create unofficial job descriptions for individual administrative tasks that describe how the task is completed (if the task is complicated, involves multiple steps, or has an unexpected requirement). Creating a document that describes each administrative duty will help to ensure that all members of the legal writing faculty are on the same page with regard to what they are supposed to do and will help the administration understand what each duty entails. It will also help if and when those duties are transferred to another faculty member.

Take, for example, a scenario where a faculty member who is responsible for coordinating legal writing awards goes on maternity leave; the responsibility for coordinating the awards will be transferred to another faculty member. The new faculty member would likely know that the school nominates several graduating students for SCRIBES awards<sup>436</sup> and that it issues awards to the top legal writing students at the end of the first core course. She could figure out how to nominate graduating students for the Scribes awards by going to the organization's website, and she would be familiar with the process for selecting students for the law school's

---

<sup>436</sup> “The National Order of Scribes was created by Scribes . . . as an honorary organization to recognize graduating law students who excel in legal writing.” *National Order of Scribes*, SCRIBES: THE AM. SOC'Y OF LEGAL WRITERS, <https://www.scribes.org/national-order-of-scribes> (last visited Nov. 14, 2019). Each year, law school members of Scribes may nominate five students to be inducted into the National Order of Scribes. *Id.*

legal writing awards since she provides information about the students from her class who have earned them. She would not, however, be aware of the process for memorializing the latter awards. It would be intuitive to notify the registrar of the awards. However, at this law school, there is a two-step process for memorializing the awards. Not only did the registrar have to be informed of the award winners, but the dean's assistant also had to be notified. If both parties were not notified, then either the registrar did not notate the award on the student's transcript or the student did not receive notification of receipt of the award. If the dean's assistant was notified but the registrar was not, this would create problems in that the student would believe that he or she had received the award, but there would be no official notation on the student's transcript to confirm this. A job description for coordinating awards could easily include the need to notify both parties of the awards and why this process was important.

Moreover, if the legal writing faculty choose to divide all the administrative responsibilities among themselves (rather than have a rotating coordinator), the group must decide upfront how to handle communications with those outside the law school, such as prospective students, potential employers, and other law schools. Who will be the point of contact for those outside the law school? How will that information be communicated to the public? Just as the law school administration may struggle with determining who to communicate with when issues arise, so too may the public.

Orpheus warns that indefinite points of contact for the legal writing program will leave members of the public to flounder when trying to determine whom to contact concerning law school business.<sup>437</sup> For instance, if the law school has no legal writing director or coordinator, and no one is listed on the website with a title suggesting that he or she is the point of contact for legal writing, members of the public with questions about the core legal writing curriculum or any upper-level writing programs will likely experience needless confusion and frustration. They will be forced to either randomly contact one of the legal writing faculty or contact Admissions or the administration and get randomly routed to one of the legal writing faculty.

Indefinite points of contact with the public can be resolved in a fairly simple way—by appointing one faculty member as the point person for communications with the public and having the

---

<sup>437</sup> See SEIFTER & ECONOMY, *supra* note 3, at 84.

administration communicate this on the website. This would need to be communicated to the public in a manner that it could recognize, such as a title.<sup>438</sup> The faculty member could be designated as the public relations officer or communications director for the legal writing program or something similar. This responsibility could be coupled with the responsibility for answering inquiries on the LWI or ALWD listservs since the duties are somewhat related. Moreover, if a faculty member is responsible for an upper-level legal writing program, such as a certificate program, that information should also appear on the website so that members of the public know who to contact with regard to that program. Members of the public should never be left to flounder when trying to determine who to contact concerning law school business.

#### **D. Share and Rotate Leadership Duties**

The fourth core principle of the Orpheus Process is sharing and rotating leadership duties. When a law school decides to transition its legal writing program from a director-led model to a more collaborative leadership model, the legal writing faculty will have to decide not only what type of autonomy they want (*e.g.*, flexibility with regard to pedagogical and/or administrative decisions), but also the degree of autonomy that each faculty member wishes to enjoy. The legal writing faculty must decide whether they wish to have a rotating coordinator who handles all the administrative duties,<sup>439</sup> or whether they wish to divide the administrative tasks among the legal writing faculty. If they opt for the latter, they will also need to decide whether they want those duties to remain static or whether they wish to rotate those administrative duties among the faculty.

---

<sup>438</sup> *See id.* Seifter and Economy advise organizations to make sure that their “employees have clear titles that make sense to [their] customers” when creating clear points of contact. *Id.* at 84.

<sup>439</sup> Such a position could also be called a “rotating department chair” as it is at the University of San Diego. Temm, *supra* note 42.

### **1. Sharing Administrative Duties and Leadership Roles**

A law school deciding to transition to a collaborative program where all legal writing faculty share administrative responsibilities must consider whether to rotate those duties and the leadership roles that accompany those duties among the faculty. The primary benefit to not rotating administrative and leadership duties is that each faculty member gets to be an expert on the particular duty that is delegated to him or her and would become extremely efficient at handling it. However, this approach is fairly shortsighted. Rotating all the administrative responsibilities every two or three years would have several benefits. First, it would bring a fresh perspective to each administrative area every couple years, which may produce innovative approaches to persistent issues. Additionally, rotating duties would diminish faculty burnout and, ultimately, distribute administrative responsibilities more evenly among the faculty. Moreover, rotating duties would afford the legal writing faculty a wider breadth of administrative and leadership experience and allow them to grow professionally. The additional administrative experience would serve as a resume builder for the faculty that they could parlay into other administrative positions (either at their current law school or university or at another), if they so desired. In terms of the benefits to the law school itself, rotating administrative duties would provide growing and learning experiences for the legal writing faculty, which would result in a more well-rounded and skilled faculty as a whole. Furthermore, this type of collaborative management of the legal writing program could provide a potential feeder for other law school administrative positions (such as assistant or associate dean).

### **2. Choosing to Have a Rotating Coordinator**

Legal writing programs do not need to abolish the coordinator position to ensure a more collaborative environment. Rather, they can retain the coordinator position and simply rotate that leadership role among the faculty.<sup>440</sup> Decisions can still be made collaboratively by all

---

<sup>440</sup> When the legal writing program at the University of San Diego transitioned from a directed program to an autonomous one, it created a department chair position that was responsible for handling all the administrative tasks for which the director had previously been responsible. *Id.* This position, which Lisa Cannon characterized as a coordinator position, rotated among the faculty members teaching in the program. *Id.*

members of the legal writing faculty; the coordinator would simply be the person completing the administrative duties and meeting with the administration. There are numerous benefits to such an approach. First, it would alleviate any concerns the administration has about hierarchy and the need for one manager or leader. As far as the administration would be concerned, the coordinator would fill the “boss” role in that he or she would deal with all the administrative matters concerning the legal writing program. Having a coordinator might also alleviate the administration’s struggle with accepting the decisions of the legal writing faculty that are based on consensus. Perhaps receiving decisions from the coordinator, a single familiar person, each time would subconsciously impact the administration and make it easier for it to accept consensus decisions as though they were the unanimous decisions of the legal writing faculty.

Second, having a coordinator would result in a clear point of contact for not only the law school and university administrations but also for members of the public. The only complication here would be making sure that the law school’s website was updated each time the coordinator position rotated to a new faculty member.

Third, having a rotating coordinator position would give the faculty member an official title and official, rather than informal, administrative experience. A coordinator position that rotated between faculty members would develop leadership skills in each member of the legal writing faculty that they could later employ in other roles within the university, such as a law school committee chair or as a member of the university’s faculty senate or house of delegates. Moreover, just as rotating the administrative duties between the faculty members would have professional development benefits, rotating a coordinator position between them would as well. Serving in such a position would provide faculty members with administrative experience that they could use to build their resume and parlay into other administrative positions either within the law school, larger university, or at another institution. Such experience would also benefit the law school itself by contributing to a more well-rounded and skilled faculty. Moreover, the law school could, if it so desired, use the coordinator position as a feeder for other administrative positions.

Fourth, the administration may be more likely to give a rotating coordinator additional compensation or course relief to allow them to complete the administrative tasks associated with that position, much like law schools do for directors. This would ease the mental struggle

associated with absorbing additional duties and may appease those faculty members who are reticent to take on additional tasks without a commensurate award of time or money.

Even if a legal writing program decides to adopt a rotating coordinator position when transitioning to a completely collaborative program, it might also choose to give some of the administrative duties to other faculty members and then rotate those duties among all faculty as well. This would allow the other faculty to build leadership skills even when they were not acting as coordinator and better prepare them for their stint at coordinating. This approach would also take a more collaborative approach than a straight rotating coordinator model. It would divide responsibility for the program among each member of the faculty more evenly and lighten the administrative load born by the coordinator.

### **E. Foster Horizontal Teamwork**

Fostering horizontal teamwork is the fifth core principle identified by the Orpheus Process.<sup>441</sup> In the context of a transitioning legal writing program, dispersing pedagogical and administrative responsibility throughout the legal writing faculty encourages the faculty to work as a team to get things done. Unfortunately, it will not be a horizontal team given that this team will consist entirely of legal writing faculty, and it will run the risk that the team's decisions will be based on limited and biased data.<sup>442</sup> To avoid this pitfall, when it is necessary to resolve an issue, the legal writing faculty should seek input from other offices or departments of the law school, such as the librarians, the registrar, the associate dean of academic affairs, or even the student body.<sup>443</sup> Including stakeholders from diverse departments will bring in new ideas, fresh perspectives, and differing approaches.<sup>444</sup> Moreover, there can be some horizontal aspects to the team even though the team members themselves are not from diverse areas of the law school.

### **F. Learn to Listen, Learn to Talk**

---

<sup>441</sup> SEIFTER & ECONOMY, *supra* note 3, at 15.

<sup>442</sup> *See id.* at 133 (noting that teams drawing on only one department's expertise risk decisions made on "an inherently limited and biased set of data").

<sup>443</sup> *See id.*

<sup>444</sup> *Id.*

Orpheus identifies learning to listen and learning to talk as the sixth core principle of its process.<sup>445</sup> Thus, one of the most important tenets that a legal writing program transitioning from a director-led program to a collaborative program must adhere to is respectful, two-way communication where all legal writing faculty may express ideas and listen to their colleagues' points of view.<sup>446</sup> Free and unfettered communication, where no topic is off-limits, is crucial, as it will allow the faculty to more quickly develop new and innovative ideas.<sup>447</sup> It will also allow them to identify earlier any potential problems or stumbling blocks in the transition process.<sup>448</sup>

Respectful, two-way communication is built upon talking *and* listening.<sup>449</sup> When learning to listen, faculty members must be “expected to listen to one another’s views and opinions, and to respect what is said and the person who said it—whether or not they agree with what is being said.”<sup>450</sup> The legal writing faculty must foster a culture of mutual respect, where they operate under the conviction that each employee contributes unique and valuable knowledge and skills.<sup>451</sup> They must believe that other faculty members have a lot to offer and that they are each contributing their unique expertise to the process.<sup>452</sup> This mutual respect facilitates open communication, where faculty members will bring their ideas and solutions to the attention of the group.<sup>453</sup>

One potential pitfall identified by the Orpheus Chamber Orchestra with regard to learning to talk and learning to listen is that meetings may waste time.<sup>454</sup> A natural response to meetings that waste time is that the newly “liberated” legal writing faculty may wish to reduce meetings or eliminate them completely in favor of email communications or some electronic means of communication. The

---

<sup>445</sup> *Id.* at 16.

<sup>446</sup> *See id.* at 146 (recognizing that “expressing ideas and listening to others points of view are essential elements of the Orpheus Process”).

<sup>447</sup> *See id.* at 139, 140.

<sup>448</sup> *See id.* at 139.

<sup>449</sup> *Id.* at 141.

<sup>450</sup> Seifter, *supra* note 18, at 5; Townsley, *supra* note 90.

<sup>451</sup> SEIFTER & ECONOMY, *supra* note 3, at 141.

<sup>452</sup> *Id.* at 142.

<sup>453</sup> *Id.* at 148.

<sup>454</sup> *Id.* at 160.

faculty in legal writing programs transitioning to a collaborative leadership model should resist this urge!<sup>455</sup> Despite the desire to cut down on meetings because they are no longer a directed program, the legal writing faculty should plan to conduct regular meetings throughout the year to ascertain how the transition to a collaborative program is going and to troubleshoot problems that arise with regard to that transition. Additionally, these meetings can be used to ensure that everyone is on task and that no administrative duties are falling through the cracks. Moreover, if the legal writing faculty opts to rotate leadership duties and responsibilities, later these meetings can be used to ensure that the transfer of duties goes smoothly and to identify and resolve any problems that may arise during that process.

Instead of reducing meetings or eliminating them altogether, the legal writing faculty should do everything they can to make the time spent in them as efficient as possible.<sup>456</sup> To make sure that meetings are productive and to reduce wasted time, the legal writing faculty should set an agenda for each meeting, set a time limit for each meeting (and abide by it!), set a certain amount of time to discuss each topic, and make sure that all employees who are needed to ensure a productive discussion are present.<sup>457</sup>

A risk is that one faculty member may dominate discussions and prevent their colleagues from participating.<sup>458</sup> This phenomenon occurs because, while “[m]ost people are quite skilled at both talking and listening, . . . integrating and balancing the two are tricky.”<sup>459</sup> To avoid this, one easy approach is for each faculty member to consciously make the effort to spend as much time listening to their colleagues’ input as he or she spends talking.<sup>460</sup> Another approach is to ensure that each faculty member is given time to voice their thoughts and opinions on an issue and is encouraged to do so. Moreover, faculty members should ask questions of each other in a supportive and non-threatening manner.<sup>461</sup> Giving each faculty member time to speak and having others ask questions will ensure that less assertive colleagues or those who are less willing to advocate for their ideas are heard.<sup>462</sup> Further, if a faculty member likes another

---

<sup>455</sup> *See id.* at 154.

<sup>456</sup> *See id.*

<sup>457</sup> *See Smith, supra* note 323-304.

<sup>458</sup> SEIFTER & ECONOMY, *supra* note 3, at 160.

<sup>459</sup> *Id.*

<sup>460</sup> *Id.* at 184.

<sup>461</sup> *Id.*

<sup>462</sup> *See id.* at 160, 184.

person's idea, they should say so, increasing the likelihood that everyone will pay attention to that idea.<sup>463</sup> Another way to ensure that all faculty members are given the opportunity to participate in the discussion is to put the assertive faculty member in charge of running meetings so that he or she must listen to the thoughts and opinions of his or her colleagues rather than talk.<sup>464</sup>

Another risk of creating an environment of open communication is that some members of the legal writing faculty may engage in behaviors that are harmful to a culture of mutual respect.<sup>465</sup> For example, if a faculty member is habitually late for meetings, he or she disrespects his or her colleagues by wasting their time.<sup>466</sup> If an individual is habitually late to meetings, another group member should speak with him or her about it and explain how the other members of the group perceive this to mean that their time is not as important as that individual's, regardless of whether the individual believes that or not.<sup>467</sup>

Another behavior that the legal writing faculty may confront that damages mutual respect is one faculty member's use of unnecessarily inflammatory or personally insulting language when criticizing another faculty member's ideas or performance.<sup>468</sup> Criticism should be *constructive*—it should be offered in a *friendly* manner rather than an oppositional manner. If a faculty member is using inflammatory and disrespectful language when criticizing other legal writing faculty members, another member of the group should approach that individual and explain that such criticism is not helpful, and that ideas should be presented in a less hostile manner to be effective. He or she should explain to the individual that using language more precisely will cure the problem and encourage him or her to offer criticism that focuses on solutions and humor to make its point rather than criticism that focuses on problems and openly mocks the other member of the group.<sup>469</sup>

---

<sup>463</sup> SEIFTER & ECONOMY, *supra* note 3, at 184.

<sup>464</sup> *See id.* at 160.

<sup>465</sup> *See id.* at 143.

<sup>466</sup> *See id.*

<sup>467</sup> *Id.*

<sup>468</sup> SEIFTER & ECONOMY, *supra* note 3, at 143.

<sup>469</sup> *Id.*

### G. Seek Consensus

Orpheus identifies the seventh core principle as seeking consensus. Thus, when transitioning from a hierarchical leadership model to a collaborative one, the legal writing faculty must remember that decisions should be based on consensus and not unanimity. Unanimity is great when you can get it, but reaching 100% agreement on an important issue is rare.<sup>470</sup> Thus, to ensure efficient and effective decision making when the program becomes more democratic and less autocratic, the legal writing faculty should base decisions on consensus.<sup>471</sup>

At the beginning of the transition process, the legal writing faculty must create a structured process for building consensus to ensure that they do not flounder when trying to create solutions that the majority of the group can agree on.<sup>472</sup> There are two primary considerations when fashioning a structured process for building consensus. First, the legal writing faculty must have a plan for reaching consensus.<sup>473</sup> Second, they must have conflict resolution methods in place for those occasions when they cannot reach consensus.<sup>474</sup>

A plan for achieving consensus is necessary because consensus building does not come naturally to organizations, such as legal writing programs, that have operated under a hierarchical leadership

---

<sup>470</sup> *Id.* at 166.

<sup>471</sup> *See id.* (“It’s rare that an organization will reach 100 percent agreement on any issue of consequence. In Orpheus, we have found that achieving a critical mass of opinion is a more realistic and useful objective for our consensus-building efforts, one that helps keep teams focused and individuals cohesive.”); Seifter, *supra* note 19, at 44 (“As an increasing number and variety of employees become involved in their organizations’ decision-making processes, and as organizations become less autocratic and more democratic, achieving consensus on decisions becomes more important.”).

<sup>472</sup> *See id.* at 165.

<sup>473</sup> SEIFTER & ECONOMY, *supra* note 3, at 180.

<sup>474</sup> *Id.* at 173.

model.<sup>475</sup> A plan to achieve consensus should include the following steps:

- a. Define the problem or decision that must be made.
- b. Agree on the objectives and goals for the issue being discussed.
- c. Brainstorm as many alternative approaches as possible.
- d. Narrow the list of possible approaches to a manageable number . . . using votes if necessary.
- e. Discuss the pros and cons of each remaining approach; adjust and compromise as required to satisfy people's needs.
- f. Decide on the best approach.
- g. If consensus is not reached, look at areas of disagreement and work to resolve them. Repeat steps e and f.
- h. When consensus is reached, act on it.<sup>476</sup>

When discussing issues in an effort to achieve consensus, the opinions of each faculty member should generally hold equal weight. In areas where an individual faculty member has more expertise than the others, this individual should be treated as “the first among equals,” much like the Orpheus’s concertmaster.<sup>477</sup> This individual should provide input based on his or her expertise, encourage others to contribute ideas to the discussion, and ultimately help the group to craft an outcome that takes everyone’s input into account.<sup>478</sup>

When the legal writing faculty have reached an impasse and are not able to achieve consensus, they must have clear guidelines and well-established mechanisms for resolving deadlock.<sup>479</sup> One such mechanism is seeking input from outside the legal writing faculty, particularly from other potential stakeholders, such as the registrar or

---

<sup>475</sup> *Id.* at 180.

<sup>476</sup> *Id.*

<sup>477</sup> *See id.* at 68.

<sup>478</sup> *Cf.* SEIFTER & ECONOMY, *supra* note 3, at 69 (“[T]he concertmaster’s primary role is to guide the orchestra through the collaborative process, bringing focus and shape to the musical interpretation, while encouraging others to contribute ideas to the discussion.”).

<sup>479</sup> *See id.* at 165 (Orpheus “has developed extremely effective structures for achieving consensus based on team decision making and respectful communication. [It] also [has] clear guidelines and well-established mechanisms for breaking the impasses that occasionally and inevitably arise.”).

the librarians.<sup>480</sup> This input can be used to further inform the legal writing faculty's decision. Another mechanism for resolving deadlock is for the legal writing faculty to vote on the issue.<sup>481</sup> However, when time is short, the legal writing faculty may allow a faculty member with expertise and serving in the role of "first among equals" to make the decision. If there is not a faculty member serving in the role of "first among equals," a designated leader from within the group should be tasked with making the decision.<sup>482</sup> This designated leader may be the person or team of persons who researched the issue. The faculty must decide at the beginning of the transition process if there will be designated leaders and, if so, design rules for how those leaders will be selected.

In addition to creating a plan for achieving consensus and selecting conflict resolution techniques, when designing a structured process for building consensus, legal writing faculty must abide by several guiding principles. First and foremost, the legal writing faculty must foster a culture of mutual respect. This mutual respect will ensure that each legal writing faculty member accepts a decision because he or she trusts the abilities and motivations of his or her colleagues as well as the integrity of the decision-making process.<sup>483</sup> Second, the faculty must agree on the overall goals and objectives of the program.<sup>484</sup> These goals and objectives will provide criteria for evaluating potential solutions to disputes that arise later with regard to how best to achieve the legal writing program's goals and objectives.<sup>485</sup>

---

<sup>480</sup> *See id.* at 173 (One of the mechanisms for resolving deadlock used by Orpheus leadership teams is to "solicit input from outside the team, before arriving at difficult or controversial decisions that will inevitably impact the entire orchestra.").

<sup>481</sup> *See id.* at 172 (When the orchestra has reached deadlock on an issue, "if time and circumstance permit, the group takes a vote to decide the issue. To the extent possible, [Orpheus] resolve[s] issues at the level where people are most directly affected by the outcome; this means that all purely artistic matters (that is, matters that do not impact the orchestra's image, marketability, or external relations) are directly in the hands of the musicians.")

<sup>482</sup> *Id.* ("[W]hen time is of the essence, especially under performance conditions, [Orpheus allows] designated leaders [to] make the choices.").

<sup>483</sup> *See* SEIFTER & ECONOMY, *supra* note 3, at 168.

<sup>484</sup> *See id.* at 167.

<sup>485</sup> *See id.*

Third, each legal writing faculty member must accept and agree to be bound by the rules of the decision-making process.<sup>486</sup> This is important because, while a faculty member may not agree with a decision, he or she must respect the authority of those colleagues making that decision and abide by that decision without trying to surreptitiously undermine it.

Fourth, open communication is crucial to building consensus.<sup>487</sup> Each faculty member must have an opportunity to provide input and offer suggestions.<sup>488</sup> This open communication will give each faculty member a sense of ownership over the decision and allow for buy-in even when a faculty member does not agree with the decision.<sup>489</sup>

Fifth, decisions, particularly controversial ones, should be made on a trial basis—no decision should be final.<sup>490</sup> The legal writing faculty should be free to reopen discussion of an issue when there is sufficient information with which to evaluate the decision.<sup>491</sup> The fact that decisions are not final will lower the risks associated with a particular decision and make compromise easier.<sup>492</sup>

There are a couple dangers to watch for in the context of consensus building. First, some members of the legal writing faculty will occasionally fall into the habit of talking too much and not listening enough.<sup>493</sup> To avoid this, each faculty member should consciously make the effort to spend as much time listening to their colleagues' input as he or she spends talking.<sup>494</sup> Another approach is to ensure that each faculty member is given time to voice their thoughts and opinions on an issue and that others ask questions in a supportive and non-threatening manner.<sup>495</sup> Further, if a faculty member likes another person's idea, they should say so, increasing the likelihood that everyone will pay attention to that idea.<sup>496</sup> If none of

---

<sup>486</sup> *See id.*

<sup>487</sup> *See id.* at 167-68.

<sup>488</sup> *See* SEIFTER & ECONOMY, *supra* note 3, at 167-68.

<sup>489</sup> *See id.* at 168.

<sup>490</sup> *Id.*

<sup>491</sup> *Id.*

<sup>492</sup> *Id.*

<sup>493</sup> SEIFTER & ECONOMY, *supra* note 3, at 184.

<sup>494</sup> *Id.*

<sup>495</sup> *Id.*

<sup>496</sup> *Id.*

these tactics work, a member of the group should speak with the other faculty member who is talking more than listening.

Another potential pitfall is that one faculty member will try to dominate the decision-making process by pressuring others faculty members to support an idea.<sup>497</sup> They may act aggressively during meetings by interrupting other members of the group, trying to shut down members of the group that disagree with them, or raising their voice during meetings.<sup>498</sup> While one may feel passionate about an issue, and such passion is encouraged, no individual should be allowed to hijack the decision-making process. Such behavior does not foster mutual respect and is harmful not only to the legal writing program, but to the law school overall. When an individual is trying to dominate the decision-making process or force others to support an idea, the first step that can be taken to combat this behavior is to encourage other legal writing faculty members who are not participating in the process to take a more active role.<sup>499</sup> If the aggressive behavior continues, another legal writing faculty member or members should talk to that person, calling attention to the behavior and explaining how destructive that behavior is to the morale and comradery of the legal writing faculty and how it is harming the legal writing program.<sup>500</sup> Moreover, that individual should be told what kind of behavior is expected and encouraged to engage in such behavior.<sup>501</sup> If the individual continues to bully his or her colleagues and refuses to allow others to voice their opinions, the law school administration should get involved and speak with that person.

#### **H. Dedicating Passionately to the Mission**

The final core principle that Orpheus identifies is dedicating passionately to the mission. According to Orpheus, “[p]assion is the spark that can make an ordinary organization great—and a great organization truly exceptional.”<sup>502</sup> Passion inspires an organization’s

---

<sup>497</sup> *Id.* at 183.

<sup>498</sup> SEIFTER & ECONOMY, *supra* note 3, at 134. Such an individual may likely be engaging in this behavior to impress the administration, create a power base, or get ahead professionally. *See id.*

<sup>499</sup> *See id.*

<sup>500</sup> *See id.* at 183.

<sup>501</sup> *See id.*

<sup>502</sup> Seifter, *supra* note 18, at 6.

employees to remain motivated even in challenging times, to achieve more than employees at better-funded organizations, and to remain with an organization even when offered greater pay or prestige elsewhere.<sup>503</sup>

The first step in inspiring passion in legal writing faculty members is for the legal writing program to have a mission that the faculty play a role in creating or modifying.<sup>504</sup> It is important for faculty to create a mission for the legal writing program; it focuses their energy and gives them a common goal.<sup>505</sup> When the legal writing faculty have a shared sense of purpose and rally around the mission, they will draw on their creativity and energy reserves to achieve higher levels of performance.<sup>506</sup> When the legal writing faculty create a mission for the program, they must share it with the administration and see if the administration is willing to dedicate the resources necessary to achieve the mission. If so, great. If it cannot, the legal writing faculty should revisit the mission to see if there are ways to achieve it with minimal support from the administration or if the mission should be revised with realistic goals in mind. The administration should be careful, however, not to repeatedly refuse to agree with the mission and provide resources. This would dampen the faculty members' passion and make them less willing to buy into the mission because it is "watered down."<sup>507</sup>

Another potential pitfall is the administration only paying lip service to the mission and, consequently, raising the legal writing faculty's expectations.<sup>508</sup> If the administration uses the mission statement for advertising the legal writing program and the law school, but then refuses to devote sufficient resources to the legal writing program and faculty to achieve the mission, the faculty will view it as a public relations ploy.<sup>509</sup> This will dampen their enthusiasm and passion for the mission.<sup>510</sup>

---

<sup>503</sup> SEIFTER & ECONOMY, *supra* note 3, at 199-200.

<sup>504</sup> *See id.* at 200, 201.

<sup>505</sup> *See id.* at 146, 201.

<sup>506</sup> *Id.* at 200.

<sup>507</sup> *Id.* at 202.

<sup>508</sup> SEIFTER & ECONOMY, *supra* note 3, at 203.

<sup>509</sup> *See id.*

<sup>510</sup> *See id.*

## V. Conclusion

An increasing number of law schools are transitioning from director-led legal writing programs to collaborative programs utilizing a cooperative management model where pedagogical and/or administrative decisions are made collaboratively by each of the legal writing faculty. Rather than law schools and legal writing faculty trying to blindly transition power and authority from the director to each member of the legal writing faculty, they should turn to the collaborative management principles developed by the Orpheus Chamber Orchestra. As the world's first conductor-less orchestra, Orpheus had to learn how to effectively manage itself and had to develop a system for decentralizing the management of the orchestra. Orpheus's collaborative management system, the Orpheus Process, works so well that Orpheus was one of the first winners of the Worldwide Award for the Most Democratic Workplaces that is sponsored by WorldBlu, Inc.<sup>511</sup> Law schools should not try to reinvent the wheel—they should learn from Orpheus's experience and knowledge.

---

<sup>511</sup> Aryeh Oron, *Orpheus Chamber Orchestra (Chamber Orchestra)*, BACH CANTATAS WEBSITE, <http://www.bach-cantatas.com/Bio/Orpheus-Chamber-Orchestra.htm> (May 2012); *Twenty-five Companies Win Worldwide Award for Democracy in the Workplace*, <https://www.pr.com/press-release/83121> (last visited July 15, 2019), <http://www.bach-cantatas.com/Bio/Orpheus-Chamber-Orchestra.htm>.