

# PROFESSIONAL CONCERNS FORUM

## IT'S NOT FAIR! . . . YOU'VE BEEN FIRED!

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As part of the 1994 AGO National Convention in Dallas, the Professional Relations Committee presented a seminar on termination. This article is a summary of that presentation and audience discussion.

*Why Do Good Church Musicians—Those Respected by Their Colleagues—Get Fired?*<sup>1</sup> A basic principle of communication is that whatever another person says is true. If your pastor announces that “music is not important in worship,” the correct response is not “You’re wrong” but “Why do you believe that?” It’s important to find out why it is true for this person. The people with whom we interact judge us on what they perceive to be true. Their opinions generally have a logical basis and are based on two main sources: personal experience and input from other people whom they trust and with whom they have formed alliances. Truth is what is perceived to be true.

In sacred music, as in other management professions, there is a good chance of a musician being fired if:

1. The leadership has not reached agreement about what constitutes success and whether to use process or outcome as the basis for measuring success. For example, you manage a Bach Vespers series that is the envy of your colleagues. For you, the impressive attendance and musical content of this series is an indicator of success. But what if the leadership considers this “your series” and not a reflection of parish life? The energy you invest in it may be seen as subtracting from the life of the parish (“If she didn’t spend so darned much time on the Vespers, maybe the junior choir would grow”). In terms of process versus outcome, if “success” for your parish means following an agreed-upon plan—a certain number of musical groups and weekly rehearsals and services—then following that process means success. If, however, your parish measures outcome—the ultimate benefits such as increased participation, a seasonal children’s choir or annual musical to draw in kids not available during the regular choir season, or hymn-teaching sessions to introduce a new hymnal—then success would be measured in a different way. Uncertainty about the focus of the congregation as a whole may be reflected in turmoil in the music program.

2. Leadership and staff do not agree on the role the musician is expected to play within the organization. It seems obvious that a musician is to see to the music. But what does this mean? Some colleagues are responsible for all the arts within their parishes—they not only choose hymns and train choirs, but train Sunday school teachers and cantors, lead the singing of grace at parish dinners, encourage volunteer instrumentalists to take part in worship, oversee the changing art ex-

hibit in the narthex, and participate in long- and short-term planning. It needs to be clear what contribution the musician is expected or allowed to make.

3. Internal and external conditions promote dissatisfaction with performance. If your parish has a declining membership, shrinking income, and an eroding physical plant, or is in the midst of a pastoral scandal, the chaos of an uncertain future can lead to internal squabbling. The energy of the parish is not spent on programs and ministry, but on damage control and politicizing as people take sides. In the midst of this conflict, the music program is an easy target, especially if the musician is allied with either camp.

*How Can Musicians Avoid Being at Risk? By Building Trust.* Here’s a scenario: I promised the minister that during the summer I would visit the church school classes to promote the fall choir programs. It is now July and I am at the AGO National Convention and scheduled to be on vacation until the end of August. I have not visited the classes, nor have I made arrangements for anyone else to do so. Will the minister trust me again? Trust is based on experience. It is earned through consistent behavior. If I didn’t want to visit the church school classes, I should never have agreed to do so. It would have been better for our relationship if I had admitted that I was not comfortable doing this, and would appreciate some help. Trust is also involved when you assign a task to someone else. If you ask a choir member to take on a project, you must give that person whatever support is needed for the project to succeed. Don’t set someone up to fail.

Clergy, staff, and congregation have to be sure that if they tell you something in confidence, it will remain confidential. A shared confidence is exactly that, and should not be treated as grist for the rumor mill. People need to know that they can count on you to be supportive of the church and its programs. Negative comments travel just as surely as gossip. Either one is guaranteed to destroy your credibility.

The best prescription to avoid being at risk in your job situation: work on your relationships with lay and ordained staff and the power structure of the church. Very rarely are musical skills involved in a firing—personalities and the ability to work well with others almost always are involved. Be seen as a positive person, someone worthy of trust, and someone who has the church’s best interests at heart.

*Why Communicate with Staff and Congregation?* In an ideal world, the congregation and clergy would just know that you are the perfect person for their music program. However, the reality is that it is the musician who usually has to initiate the information exchange that teaches how important the music program is to the parish. Musicians spend considerable time honing their musical skills, but often neglect their communication skills. It is these skills that mean the difference between a happy working relationship and one marred by tension and bad feelings.

Be plugged into what is going on in the church. Be part of the church, not apart from it. One simple way is to think “we” and not “I.” Attend the meetings that will have an impact on you and what you do: staff meetings, worship planning meetings, and whatever else seems appropriate. Go to social functions whenever possible. Teach a church school class. Give a talk to the women’s group. Take the children of the church on an organ tour. Write a regular column in the church newsletter. Insert music notes in the worship bulletin. Send out a choir newsletter. Send cards to people in the church when you hear about major events in their lives. Be the one who occasionally gives the altar flowers—in thanksgiving for or in honor of your choir(s). Maintain regular office hours, day or evening. Perception is reality: if people think that you are available, then you are, whether you are physically present at the church or not.

Listen to comments and suggestions. While others may not have your musical expertise, what they think is absolutely true for them. If you can listen in a non-judgmental fashion, your chances of educating increase, and you might learn something, too. Leave the door open to communication. The more people who know who you are and what you do, the more secure your working relationship will be. Your congregation needs to know you as a whole person.

*What Do You Do When a Working Relationship Is on the Skids?* All relationships experience rough times. Musicians seem particularly susceptible to changes in leadership and program. For example:

Your minister departs, and your church enters an interim period.

Changing demographics lead to pressure for more varied styles of music.

Your congregation moves into a new building, altering worship and other activities.

Charles Goldstein, a labor lawyer, listed the following signs of impending termination in the February 15, 1990, issue of *Privileged Information*:

- You are disciplined more frequently; your boss begins to keep a written record of your performance without suggesting how it might be improved.
- Your duties are changed without explanation; you are given less meaningful tasks and diminished authority, or jobs in which you are sure to fail.
- Your boss suddenly begins to put down or ignore all suggestions.
- Your benefits are cut back, or early retirement is encouraged.

Two examples more specific to a church musician:

- You learn from the education director that children will be the focus of the church's five-year growth program, but you were told by the pastor not to be concerned about the weak youth choir program.
- Your new minister exhibits control by positioning him/herself next to the console during the postlude and greeting worshippers as they depart.

Sometimes tension is initiated by the musician:

- Your church has a policy of allowing third parties to play for weddings or of allowing funeral homes to decide on your fee. You decide you want the policy changed.
- Your full-time job suddenly requires weekend travel, and you must ask for more Sundays off than were provided for in your contract.

If you make a decision that will increase tension, no matter how noble your motives, you must consider the potential consequences, up to and including your termination. Whether or not you are the source of the stress in the working relationship, there are preventive measures you can take before reaching the point at which you may be fired:

- Be diplomatic. Know the political structure of your congregation, and have supporters in the right places. This process need not be devious.
- Save copies of all correspondence related to your job. Take good notes of relevant conversations. If things really look bad, keep a diary. All these can be invaluable in later legal actions.
- Don't become emotional. If necessary, document what is happening in a dispassionate memo to your immediate supervisor and the church's governing body.
- Consult with experts. These may include a lawyer, your state's Equal Employment Opportunity Commission, your AGO chapter's professional concerns representatives, your denominational music organization, and your diocesan or conference authority.

*What Does It Take to Fire Someone?* In the June 1993 issue of *Association Management*, George Webster explained "How to Fire an Employee: Dismissal do's and don'ts for following the law." There are three easy steps:

Articulate why the person should be fired, and make sure the reasons are not forbidden. There is no legal requirement that a dismissal be "fair."

Make sure the reasons are supported by the evidence.

Check for consistency and uniformity. [Note: If a musician is suddenly being scrutinized more closely than any other staff person and every minor infraction is blown into a major event, the employment situations are obviously not consistent.]

Do not:

Set out to "get" someone. [Note: If an employer makes working conditions so unbearable that a reasonable person feels obliged to quit, the situation is considered a dismissal.]

Lie or be evasive about the reasons for dismissal.

The law is not concerned with hurt feelings, but with contracts being honored and laws being upheld. If you insist, as do many in our profession, that working for the church is different than working for IBM, we can only agree with you to the extent that IBM's outplacement and compensation package are superior. Your best recourse is the termination procedures laid out in your contract or in the congregation's personnel policies.

*How Can Employment Interviews Keep You From Being Fired?* Many potential difficulties can be sighted at the interview and addressed before the costs of leaving are too great. Request a job description and audition requirements before the interview. If you are interviewing with a denomination with which you have no previous experience, find out its congregational structure and organization. List the questions you will ask at the interview:

What are the musical priorities of the institution?

How does the music program fit into the life of the congregation?

What is the potential for growth in the music program? What is the commitment of the congregation to provide for that growth?

How does the parish see the arts in relation to the community at large?

Why did the former musician leave?

How much time do they believe the position requires?

How does the congregation view its future? Will it shrink or grow?

Are there personnel guidelines for the institution? These should provide information about the benefits offered to other staff members.

Can you obtain an annual report of the institution? It can give you an overall picture of the last year, the overall budget, and other staff salaries.

Considerations after the interview:

Do you really want to work with this staff and congregation?

What kind(s) of music do they want, and are you willing to provide it?

Are you willing to accept the minuses of the position in order to enjoy the pluses?

Are you willing to accept a job that is far below your compensation requirements but promises raises in the future? Get commitments in writing. Church leadership changes.

Before negotiating, you need to know:

Who are the decision makers?

What is the process?

What is the financial situation of the institution?

What is the budget?

When is the budget formulated, and by whom?

What is the total worth of your compensation, including benefits?

What are you worth in the marketplace?

The successful negotiator will:

Choose the right time.

Prioritize (have a clear objective).

Obtain all the necessary facts.

Look at the big picture.

Have a fallback position.

*Why Do You Need a Contract?* Employment relationships take three forms:

1. Verbal contract/agreement. Under general contract law, a contract exists when an agreement is made between two or more parties consisting of promises made, imposing mutual duties on both sides, and having a lawful purpose. Most verbal contracts are no more than employment at will, meaning that as long as both parties wish to continue the relationship, it continues. However, if one party decides, at any time and with no warning, to terminate the relationship, there is no legal reason why that cannot be done. The courts will not enforce a contract they can't understand or whose terms cannot be determined. Written contracts allow for easier enforcement and understanding.

2. Job description. This is usually supplied by the employer and is not a contract. In the typical job description, there is no indication that the parties are bound by every item mentioned. Unless there is an affirmative sign (signature) that both parties intend to be

bound by the terms specified, the document is only a recital of the employer's needs. Job descriptions rarely mention items such as termination policies, insurance benefits, or retirement benefits.

3. Written contract/work agreement. A written contract's great benefit is that it forces both parties to communicate their needs and priorities. A written contract allows positive and open communication at the very beginning of a relationship. It defines the terms of the employment relationship and avoids confusion and memory lapses. A written contract establishes reference points creating positive changes in the employment relationship and facilitates dealing with issues, not personalities.

A contract is neither a tenure document nor a guarantee of employment. A contract is an agreement that lists the responsibilities and expectations of both parties, as attested to by the signature line. It should contain the duties of the musician, lines of accountability, and policies of the institution regarding weddings, funerals, soloists, assistants, substitutes, instrumentalists, directors of other ensembles, instrument use, teaching, etc. It should also include the institution's obligations and responsibilities: salary, benefits, program budget, performance review, procedure for renewing or amending the contract, and termination and severance policy.

When using the AGO's model contracts, remember that they are not the perfect fit for all circumstances. Never thrust a sample contract at an employer and expect acceptance. The contract is an opportunity to communicate. Approach the negotiation in a positive and noncombative manner. Remember, the employer has needs that may not coincide with yours. Be prepared to listen and discuss different options. Be sensitive to churches that have never had a written contract. If you feel insecure in negotiating certain aspects of the contract, seeking professional legal advice is certainly a good investment, but don't take your attorney to your meetings with a prospective employer. It may contribute to a fear of confrontation rather than to communication.

A good time to suggest a contract is when there is an imminent leadership change or it is time to evaluate your job and how it has changed over the years. If you do not have a contract and the institution will not agree to one, put in writing what you understand the job to be and invite comment on it from the appropriate authority. Explain that it is important that you and the employer share an understanding of the position. Note that you would welcome discussion with the appropriate persons. Ask that your letter be placed in your files. Update this letter annually.

*What Do You Do When You're Fired?* Being fired is a shock. You will feel emotions ranging from fury and outrage to insecurity and worthlessness. Although you may want to vent these emotions at the person who has just fired you, you will do yourself a big favor by holding back and responding with a statement of surprise and the need to give some thought to what has just happened: "I wasn't expecting this and I need to think about it before saying anything more." If they ask for your keys, you will have to turn them over. If you have personal property on the premises, remind them (verbally and in writing, if necessary) that they will be held responsible for items belonging to you.<sup>2</sup> Then

get yourself away from the scene, preferably to your home or to a trusted friend to begin to think through what has happened. Say little and exit gracefully.

Talk to friends and family about what has happened; you'll need their support, and they can help you make sense of the situation. Call the dean of your AGO chapter and the director of the chapter's professional concerns committee. If you belong to a denominational association, get its input. These people can offer you valuable professional advice and may also have a perspective on your particular situation that you lack. They can also advise you about launching a formal complaint through your AGO chapter and about possible legal action. If you think you have a legal case against your employer, contact your lawyer or get a referral from your AGO dean or someone with experience in employment matters. Ask yourself the following questions:

Was I given any formal warning, verbal or written, that I was performing my duties inadequately?

Do I have a written contract and did my firing follow the terms of this document? If you have only a verbal agreement, your employer is within his or her rights to terminate you, and this is not considered breach of contract.

Does my employer have personnel policies or employment policies for the staff, and did my firing conform to their terms?

Will I receive severance pay, and am I entitled to more?

Take your time thinking through what, if any, course of action you should take, and be sure to get good advice from a number of trustworthy sources. Don't rush into action by yourself because you think you were treated unfairly or would like revenge. Spend a week developing objectivity and deciding what course of action will be in your best, long-term interest. As a part of this process, gather documents about your employment,

including your contract or letter of understanding, any notices in your employer's bulletins or newsletters about you and your work, copies of programs you have performed, letters sent by your employer or from people in the congregation recognizing your good performance, and anything else that documents the quality of your work and your investment of talent. Talk with those closest to you from your employing institution, such as choir members or the head of the music committee. Discuss your sense of your value, and get feedback about why your employer chose to fire you despite testimonies to your fine performance. In a nutshell, try to gain as complete an understanding as you can of your employer's reasoning.

When you have done this homework, determine what it is that you would like to have as the outcome or resolution, based on your understanding of the situation and the advice you have received. Do you want severance pay, a letter of apology, better employment conditions for future employees at that institution? The likelihood of getting your job back is very small. If you are entitled to severance pay, Small Claims Court is a good avenue to pursue. If you've been advised that your employer violated the terms of your contract or engaged in discriminatory practices, you may want to proceed with a legal case. If you decide to take legal action, you should be aware that lawyers will advise your former employer not to discuss the case, thereby impeding an AGO investigation until the court case has been resolved. You should consider the Guild's Procedures for Complaints about Employment Matters if you believe the working conditions and/or termination procedures were unfair. If you believe your case is very strong but lacks legal clout, you should discuss the probable outcome of an AGO complaint procedure with your dean. You will have a great advantage in pursuing any of these courses of action if you had a current contract with your employer.

Although it's important to spend time getting advice and gaining an overview of your situation before deciding what actions to take, it's also important not to draw your consideration of the matter out too long. Your former employer may take the stance of "business as usual" and set about hiring someone else quickly, before the conclusion of the AGO procedure or a legal case that might determine the employer acted unfairly. Your employer will have a more difficult time if the case is concluded in your favor before the hiring process is completed.

*What Do You Do When a Colleague Is Fired?* Example: A friend phones to say she's just been fired from her job at St. Carole's Across the Street after years of building up its music program and spearheading the organ restoration project. She is devastated, and frightened of the financial implications, and she needs your advice and support. How do you respond?

Believe it or not, some of our colleagues would express their sympathy and shock at such a turn of events, hang up, and then fax their résumés to St. Carole's. We've heard of churches where musicians applied for positions when the incumbent hadn't been terminated, but rumors were spreading that this was about to happen. Most of us need no reminder that it's a violation of the AGO's Code of Ethics to apply for a position when the incumbent has not been formally terminated. How do we look as members of a professional organization when members submit résumés within hours of a colleague's firing, particularly if the circumstances surrounding that termination are murky? Respect for colleagues should include waiting until a position is posted or advertised, and it should also include ascertaining the circumstances leading to its vacancy. Do your homework and find out why the position is open. Your dean can help.

On the other hand, be careful how you respond to a colleague who has been fired. There are always two sides to a situation, and expressing total support without knowing the employer's version can be dangerous. What you say may boomerang, making you look unprofessional because you were uninformed about the actual situation. As AGO members, we need to stick together and support each other. Being fired is devastating, but it can be easier when colleagues express care and concern and come together to help one another.

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#### NOTES

1. The analysis of firing good people in the first part of this article is based on work done by Glenn Tecker and Cate Bower, who have studied the high turnover rate in association executives for *Association Management Magazine* (Dec. 1992).

2. Under the principles of bailment, a person (bailee) who accepts delivery of another's personal property is considered to hold that property in trust. The property must be returned or duly accounted for when the owner (bailor) reclaims it. The law requires that the bailee be aware that such property is in his/her possession.