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Non-Profit Governance and Ethical Practice

A new guide for charities and foundations from the Panel on the Nonprofit Sector

In October 2007, the Panel on the Nonprofit Sector published *Principles for Good Governance and Ethical Practice: A Guide for Charities and Foundations*.

The Panel on the Nonprofit Sector was organized in 2004 after the non-profit community was urged by a U.S. Congressional committee to form a self-regulatory body. The Panel was created to promote the importance of self-governance and accountability under the threat of increasing government restrictions and in the face of public criticism towards members of non-profit organizations using charitable resources for personal gain.

Principles for Good Governance and Ethical Practice: A Guide for Charities and Foundations is the result of the Panel's work to provide a set of ethical standards for the non-profit sector as a whole. The guide contains 33 principles, the reasoning behind each principle, and guidance on adapting and applying each principle. For non-profit organizations, the principles act "as guideposts for adopting specific practices that best fit its particular size and charitable purpose."

The 33 principles reflect the Panel's efforts to maintain the important balance between government regulation and self-regulation. Six of the 33 principles are required by law (Principles #1, 3, 21, 25, 26 and 27). The remaining principles contain the necessary flexibility to be interpreted and applied differently based on the individual needs of the non-profit organization. The Panel created the principles to serve the needs of the Board of Directors and, if applicable, the Chief Staff Officer of a non-profit organization. However, the Panel recommends that discussion about the principles take place among all members of the organization. In addition, the board and non-profit officers should disclose the process for reviewing, adopting, or not adopting the principles.

The outline below contains the list of principles in an abridged format. Each principle is organized in one of four broad categories.

The guide is available on the Panel on the Nonprofit Sector web site (<http://www.nonprofitpanel.org/>). The Panel also provides a reference version of the guide. The reference version contains the legal background for each principle, a glossary of terms, and information on the previous work performed by the Panel that served as a foundation for the guide.

Summary of Principles for Good Governance and Ethical Practice

Legal Compliance and Public Disclosure

1. A charitable organization must comply with all laws and regulations (Federal, State, local, and international).
2. A charitable organization should have a formally adopted, written code of ethics.
3. A charitable organization should adopt and implement policies and procedures to address and resolve all conflicts of interest, or the appearance thereof.
4. A charitable organization should establish and implement “whistleblower” policies and procedures that enable individuals to come forward confidentially with good-faith information on illegal practices or violations of organizational policies.
5. A charitable organization should establish and implement policies and procedures to protect and preserve the organization’s important documents and business records.
6. A charitable organization’s board should practice effective risk management to protect its tangible and intangible assets - its property, financial and human resources, programmatic content and material, and its integrity and reputation - against damage or loss; including, but not limited to, adequately insuring against the liability of the organization, directors and officers.
7. A charitable organization should make information about its operations, including its governance, finances, programs and activities, and evaluations of their work widely available to the public.

Effective Governance

8. A charitable organization must have a governing body that is responsible for reviewing and approving the organization’s mission and strategic direction, annual budget and key financial transactions, compensation practices and policies, and fiscal and governance policies.
9. The board of a charitable organization should meet regularly enough to conduct its business and fulfill its duties.
10. The board of a charitable organization should establish its own size and structure and review these periodically, ensuring enough members to allow for full deliberation and diversity of thinking on governance. Except for very small organizations, ideally the board would have at least five members.

11. The board of a charitable organization should include members with the diverse background (including, but not limited to, ethnic, racial and gender perspectives), experience, and organizational and financial skills necessary to advance the organization's mission.
12. A substantial majority of the board of a public charity, usually meaning at least two-thirds of the members, should be independent. Independent members should not: (1) be compensated by the organization as employees or independent contractors; (2) have their compensation determined by individuals who are compensated by the organization; (3) receive, directly or indirectly, material financial benefits from the organization except as a member of the charitable class served by the organization; or (4) be related to anyone described above (as a spouse, sibling, parent or child), or reside with any person so described.
13. The board should hire, oversee, and annually evaluate the performance of the chief executive officer of the organization and ensure the adequacy and the appropriateness of the CEO's compensation package.
14. The board of a charitable organization that has paid staff should ensure that the positions of chief staff officer, board chair, and board treasurer are held by separate individuals. Organizations without paid staff should ensure that the positions of board chair and treasurer are held by separate individuals.
15. The board should establish an effective, systematic process for educating and communicating with board members about their legal and ethical responsibilities, and the programs and activities of the organization.
16. Board members should evaluate their performance as a group and as individuals at least every three years, and should have clear procedures for removing board members who are unable to fulfill their responsibilities.
17. The board should decide if term lengths for board members are appropriate, and if so, establish clear policies and procedures setting the length of terms and the number of consecutive terms a board member may serve.
18. The board should review organizational and governing instruments (e.g., articles of incorporation, bylaws) at least every five years.
19. The board should establish and review regularly the organization's mission and goals and should evaluate, at least every five years, the effectiveness of the organization's programs, goals and activities in advancing its mission.

20. Board members are generally expected to serve without compensation, other than reimbursement for expenses incurred to fulfill their board duties. A charitable organization that provides compensation to its board members should use appropriate comparability data to determine the amount to be paid, document the decision and provide full disclosure to anyone, upon request, of the amount and rationale for the compensation.

Strong Financial Oversight

21. A charitable organization must keep complete, current, and accurate financial records. Its board should receive and review timely reports of the organization's financial activities and should have a qualified, independent financial expert audit or review these statements annually in a manner appropriate to the organization's size and scale of operations.
22. The board of a charitable organization must institute policies and procedures to ensure that the organization (and, if applicable, its subsidiaries) manages and invests its funds responsibly, in accordance with all legal requirements. The full board should review and approve the organization's annual budget and should monitor actual performance against the budget.
23. A charitable organization should not provide loans (or the equivalent, such as loan guarantees, purchasing or transferring ownership of a residence or office, or relieving a debt or lease obligation) to directors, officers, or trustees.
24. A charitable organization should spend a significant percentage of its annual budget on programs that pursue its mission. The budget should also provide sufficient resources for effective administration of the organization and, if it solicits contributions, for appropriate fundraising activities.
25. A charitable organization should establish clear, written policies for paying or reimbursing reasonable expenses incurred by anyone conducting business or traveling on behalf of the organization.
26. A charitable organization should neither pay for nor reimburse travel expenditures for spouses, dependents or others who are accompanying someone conducting business for the organization unless they, too, are conducting such business.

Responsible Fundraising

27. Solicitation materials and other communications addressed to donors and the public must clearly identify the organization and be accurate and truthful.
28. Contributions must be used for purposes consistent with the donor's intent, whether as described in the relevant solicitation materials or as specifically directed by the donor.

29. A charitable organization must provide donors with specific acknowledgments of charitable contributions, in accordance with IRS requirements, as well as information to facilitate the donors' compliance with tax law requirements.
30. A charitable organization should adopt clear policies, based on its specific exempt purpose, to determine whether accepting a gift would compromise its ethics, financial circumstances, program focus or other interests.
31. A charitable organization should provide appropriate training and supervision of the people soliciting funds on its behalf to ensure that they understand their responsibilities and applicable federal, state and local laws, and do not employ techniques that are coercive, intimidating, or intended to harass potential donors.
32. A charitable organization should not compensate internal or external fundraisers based on a commission or a percentage of the amount raised.
33. A charitable organization should respect the privacy of individual donors and, except where disclosure is required by law, should not sell or otherwise make available the names and contact information of its donors without providing them an opportunity at least once a year to opt out of the use of their names.

Questions about this article may be directed to Mary Beasley at 203.932.2931.

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