

Go! Manage Possible Conflicts of Interest



Go forward.

25%

of the public has a high level of
confidence in charitable organizations.¹

Reputation is invaluable to individuals and institutions. When people trust that we operate honestly and fairly, we are stronger. But when trust is eroded, we are weakened.

We've seen this in too many of our institutions—religion, government, corporations, and nonprofits. Each breach of the public trust weakens an institution.²

Reputation is especially crucial for nonprofit organizations. Our sector serves the public good and is entrusted with many of society's most altruistic functions—educating minds, uplifting souls, and providing health and safety. Public expectations for ethical behavior are understandably high.

Shouldn't nonprofits adhere to the highest standards by the nature of what they do?

Shouldn't they be a beacon for doing what's right?

Of course. We realize that without trust, donors will not give, and people will not volunteer. To maintain public trust, we must operate ethically and be worthy of trust. Conflicts of interest are one highly visible ethical issue.

Conflicts of interest

The IRS defines a nonprofit organization as one operated exclusively for charitable purposes, where no parts of its earnings are used to benefit a private individual. This definition demands that we manage possible conflicts by making decisions in our organization's best interests and do not allow personal, financial, business, or other concerns to enter the equation.³

Because nonprofit board members are likely to be involved in many organizations in our communities, both on a professional and a personal basis, it is not unusual for a conflict of interest to arise. Consequently, we cannot avoid conflicts of interest entirely.

Fortunately, the conflict itself is not the problem. A problem only arises when a decision-maker's self interest may supersede the interests of the nonprofit organization.

How to Use a Go! Guide

1. Read the guide text for practical advice.
2. Use numbered "Endnote" links that match with Superscript numbers (like this one¹) after key text points. You'll link to materials that expand on the key points.
3. Use other Web sites in the "General Resources" for more access to practical information.
4. Not getting the answers you need? Call for help from the Allen County Public Library Nonprofit Resource Center at (260) 421-1238.

Examples Conflicts of interest

The manager of a residential program owns a second hand clothing store where he brings clients to shop.

The CPA firm where the board president's wife is an accountant bids the agency's audit.

An art museum board member and local artist wishes to sell her latest painting to the museum.

Managing conflicts of interest

A system of checks and balances to handle conflicts of interest will go a long way to protect our organizations and leaders. Consider implementing the steps below:

1. A conflict of interest policy

A well articulated conflict of interest policy makes it easier to handle a conflict situation. The policy should be in writing and approved by the board of directors. In it, consider the unique needs and circumstances of the organization. Most will want standards regarding potential business relationships between board members and staff.⁴

According to *BoardSource*, a conflict of interest policy will have at least three essential elements:

- board and staff members who are in decision-making roles will reveal their connections with groups doing business with the organization;
- when board members have an actual or potential conflict of interest, they will not participate in discussions or vote on matters affecting transactions between the organization and the other group; and
- staff members who have an actual or potential conflict will not be substantively involved in decision-making affecting such transactions.⁵

For a sample conflict of interest policy, please see *Board Café*. Jan Masaoka of *CompassPoint Nonprofit Services* offers an example of a basic conflict of interest policy/agreement statement.⁶

2. Board involvement

There may be no better way to infuse our boards with sensitivity about conflicts of interest than to involve them in drafting the policy. Once in place, our conflict of interest policy will become part of the training for new board members.

3. Annual disclosure statements

To effectively implement a conflict of interest policy, we need current information about the affiliations of board members and key staff. It would be a good practice to periodically circulate a questionnaire or disclosure statement asking for a list of the person's employment, business interests, organizations, or affiliations that might become conflicts.

Definitions

Disqualified Person

Anyone who was in the position to influence an organization during the past five years preceding a transaction.

Excess Benefit Transaction

Benefit that exceeds the value of services or goods provided to the nonprofit by the disqualified person.

Self Dealing

When a disqualified person is involved in both sides of a business transaction.

Private Inurement

An insider receives disproportionate financial benefits from his or her relationship with a nonprofit.

Beyond the law

Proper handling of conflicts of interest is only one ethical concern to consider. The *Independent Sector's Ethics and Accountability Committee* recently looked at issues of accountability for nonprofit organizations. They published a *Statement of Values and Code of Ethics* to summarize their work.⁸ It says that nonprofit and philanthropic organizations must do more than simply obey the law. "We must embrace the spirit of the law, often going beyond legal requirements... transparency, openness and responsiveness to public concerns must be integral to our behavior... [as should the] core values of integrity, honesty, fairness, openness, respect, and responsibility.

We realize that public trust is the bedrock of nonprofit legitimacy. Donors and volunteers support charitable organizations because they trust us to carry out our missions, to be good stewards of our resources, and to uphold rigorous standards of conduct."

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Research was completed November 30, 2004. The sites below were active at that time. For your convenience, copies of all information are available at the Allen County Nonprofit Resource Center.

Endnotes

- ¹ Independent Sector; *Keeping the Public Trust in an Age of Scrutiny*; see <http://www.independentsector.org/PDFs/trust.pdf>
- ² Tony Judt; *A Matter of Public Trust*; Newsweek (Pacific Edition); 7/26/2004, Vol. 144 Issue 4, p11, 1p, 1bw
- ³ Daniel L. Kurtz; *Managing Conflicts of Interest*; The National Center for Nonprofit Boards; June 2001
- ⁴ Daniel L. Kurtz; *Managing Conflicts of Interest*
- ⁵ BoardSource; see <http://www.boardsource.org/FullAnswer.asp?ID=97>
- ⁶ Jan Masaoka; *A Sample Conflict of Interest Policy*; CompassPoint Nonprofit Services; see http://resources.tnpr.ca/TopicAssets/1000/sample_conflict_of_interest_policy.doc
- ⁷ Harmon, Curran, Spielberg & Eisenberg, LLP; *The NonProfit Navigator*; see December 2002 in the archives; <http://www.harmoncurran.com/navigator>

- ⁸ The Independent Sector; *Statement of Values and Code of Ethics for Nonprofit and Philanthropic Organizations*; see http://www.independentsector.org/members/code_ethics.html

General Resources

For other sample conflict of interest policies see:

- http://www.newyork.bbb.org/mybas/Sample_Conflict_of_Interest_Policy.htm, New York Better Business Bureau
- <http://www.ag.state.mn.us/pdf/charities/ConflictInterestPolicy.pdf>; the Minnesota Attorney General
- <http://www.crcmn.org/npresources/conflictofinterest.doc>, Charities Review Council of Minnesota
- <http://www.arch.asn.au/manuals/manage/twelve.html>, The Association to Resource Co-operative Housing

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- ⁸ The Independent Sector; *Statement of Values and Code of Ethics for Nonprofit and Philanthropic Organizations*; see http://www.independentsector.org/members/code_ethics.html

General Resources

For other sample conflict of interest policies see:

http://www.newyork.bbb.org/nybas/Sample_Conflict_of_Interest_Policy.htm, New York Better Business Bureau

<http://www.ag.state.mn.us/pdf/charities/ConflictInterestPolicy.pdf>; the Minnesota Attorney General

<http://www.crcmn.org/npresources/conflictofinterest.doc>, Charities Review Council of Minnesota

<http://www.arch.asn.au/manuals/manage/twelve.html>, The Association to Resource Co-operative Housing



For good. For ever.

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