

Ethics Codes for Nonprofits

06.29.17 | Linda J. Rosenthal, JD



Ethics – or lack thereof – has been in the news quite a bit recently.

Back in 2009, the prestigious Stanford Social Innovation Review published an article titled “[Ethics and Nonprofits](#).” The opening paragraph was harsh:

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Those who work on issues of ethics are among the few professionals not suffering from the current economic downturn. The last decade has brought an escalating supply of moral meltdowns in both the for-profit and the nonprofit sectors. Corporate misconduct has received the greatest attention, in part because the abuses are so egregious and the costs so enormous.

**** Still, the corporate sector has no monopoly on greed. Consider EduCap Inc., a multibillion-dollar student loan charity. According to Internal Revenue Service records, the organization abused its tax-exempt status by charging excessive interest on loans and by providing millions in compensation and lavish perks to its CEO and her husband, including use of the organization’s \$31 million private jet for family and friends.*

Public confidence in the ethics of leaders and entities across the spectrum, including for nonprofits, was dim.

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Public confidence in nonprofit performance is similarly at risk. A 2008 Brookings Institution survey found that about one third of Americans reported having “not too much” or no confidence in charitable organizations, and 70 percent felt that charitable organizations waste “a great deal” or a “fair amount” of money. Only 10 percent thought charitable organizations did a “very good job” spending money wisely; only 17 percent thought that charities did a “very good job” of being fair in decisions; and only one quarter thought charities did a “very good job” of helping people.⁵ Similarly, a 2006 Harris Poll found that only one in 10 Americans strongly believed that charities are honest and ethical in their use of donated funds. Nearly one in three believed that nonprofits have “pretty seriously gotten off in the wrong direction.” These public perceptions are particularly troubling for nonprofit organizations that depend on continuing financial contributions.

The ensuing years have – if anything – further eroded the opinions of the public about ethical standards in American society, generally.

Nonprofits and Ethics Dilemmas

While there are certain express codes of ethics in the nonprofit sector, especially in connection with fundraising – see, for instance, the AFP Code of Ethics – generally, these standards are not written down specifically and in detail. Certainly, there are laws, regulations, and rules that govern activities of organizations and their leaders, but the fuzzier concept of ethics is not generally set in stone.

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If ethics were cut and dry, there wouldn't be dilemmas; we wouldn't have to use our moral compasses. Unfortunately, life is a little more complicated than that. In the nonprofit sector, there are various ethical and moral dilemmas that could creep in and bog down your straight path to doing more good.

Various experts and commentators have made lists of categories of ethical situations in the charitable sector. In “[7 Ethical Dilemmas Facing Nonprofit Organizations](#),” the author briefly sets out a useful list, which can serve as a jumping-off point for an overview of this important and timely topic.

Tainted Money

Especially in times of severe budget constraints – like the period the nonprofit sector is likely facing this year and in the immediate future – it’s difficult for a charity to turn down money. Sometimes, however, it’s the right thing to do.

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For example, you wouldn't accept money that has been stolen or acquired from selling drugs. You also wouldn't accept money if it were coming from somebody who goes against everything your mission stands for. Always consider where the money is coming from and whether there would be a conflict because of your mission.

We’ve published earlier posts on sticky situations in connection with prospective gifts or – trickier still – when a good gift goes bad. An example is “[How a Huge Donation Can Turn Into Bad News](#).”

Compensation

In addition to avoiding excessive compensation, an organization should steer clear of connecting compensation with amount of funds raised. “The motivation for fundraisers should be to help further the mission, not to make more money.”

The Association of Fundraising Professionals include this admonition in its Code of Ethics; for example:

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Members shall: not accept compensation or enter into a contract that is based on a percentage of contributions; nor shall members accept finder's fees or contingent fees, [however, it is permitted] to accept performance-based compensation, such as bonuses, only if such bonuses are in accord with prevailing practices within the members' own organizations and are not based on a percentage of contributions.

Privacy

“Only keep the information that is necessary for your donors. Never get more than you need or use it for anything other than what you told donors you’d use it for. Be especially mindful of lists that you collect for email marketing pieces and more.”

The issue of donor privacy is particularly timely in connection with the vastly increased opportunities for uncovering and appropriating confidential data by computer hacking or other interference. Now, more than ever, cybersecurity must be at the top of priorities for all nonprofits; see our earlier post: “Nonprofits and Cybersecurity: Make it a Priority.”

Appearance of Impropriety

“Sure, it’s not illegal; but that doesn’t make it right.” There may not be an express law or rule prohibiting certain conduct but “the sector would look down upon the behavior” or it “might be perceived in the wrong way.”

There are certain examples; for instance, the AFP Code gives the example of “a fundraiser directly benefiting from a benefactor’s estate gift.”

Otherwise, it requires an intrinsic moral compass. Sadly, not everyone has that these days.

Stewardship

“Donors want to know that you’re using the funds for what you said you’d use them for. Don’t promise donors one thing and then turn around and use the funds for something else....”

Even if the absence of specific, express, gift restrictions imposed by the donor, there are situations in which it’s not ethical to use a particular donor’s funds.

Honesty

“Tell the whole truth to your staff, donors and constituents, and nothing but the truth.” Not only is it the right (ethical) thing to do, but it also generally results in a good response; a donor, for instance, is more likely to continue a relationship with an organization that has been honest in its dealings with him or her.

Conflicts of Interest

There are, in federal and state laws, particular prohibitions that are conflicts of interests. To the extent that certain conduct is expressly disallowed, it makes the decision about how to proceed clearer. In addition, the now widespread use of conflict-of-interest policies within organizations also

helps make objective decisions about various potential situations. But even when a specific behavior is not clearly prohibited, there are certain situations where the behavior is either just wrong or presents the appearance of impropriety. It's a matter of being sensitive to the possibility that the conduct is better avoided, and seeking advice in difficult circumstances.

Conclusion

The Stanford Social Innovation Review [article](#) at this beginning of this post is well worth a read. It includes a sophisticated analysis of factors that shape ethical decisions, including the organization culture itself:

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Nonprofit executives and board members also should be willing to ask uncomfortable questions: Not just “Is it legal?” but also “Is it fair?” “Is it honest?” “Does it advance societal interests or pose unreasonable risks?” and “How would it feel to defend the decision on the evening news?” Not only do leaders need to ask those questions of themselves, they also need to invite unwelcome answers from others. To counter self-serving biases and organizational pressures, people in positions of power should actively solicit diverse perspectives and dissenting views. Every leader’s internal moral compass needs to be checked against external reference points.