

# The Importance of Being Ethical (Nonprofits)

08.19.22 | Linda J. Rosenthal, JD



Our current lighthearted series – “Nonprofits’ ‘What Not To Do” is a tongue-in-cheek road map to staying out of trouble or legal jeopardy. Hopefully, it’s a welcome break from the relentless heaviness of current events reported on the 24-hour news cycle. See our most recent episode, (1.3), featuring “The Case of the Possible Pledge.”

But these cautionary tales have a more serious purpose; namely, to reinforce the notion that nonprofit organizations and their key people should aim higher than mere minimum compliance with laws and rules. Not just legal, but also ethical, behavior should be the goal.

To aim for and achieve a culture of ethics in an organization is not only a moral duty, it’s also a financial necessity. In terms of survival, nonprofit organizations must be held in high esteem to attract and maintain public financial and other support. According to current surveys and studies, though, there has been a statistically significant erosion in trust in the nonprofit sector. *Trust in Civil Society* (May 19, 2022) Independent Sector; see also, for example: *Why are foundations and nonprofits losing public trust?* (June 17, 2022) Stephanie Beasley, *devex.com*; *Combatting decline in trust in nonprofits* (January 27, 2022) James Davenport, *philanthropydaily.com*

## ***Background***

You’ll recall that the new century opened with a slew of high-profile corporate scandals like Enron. The nonprofit sector, though less directly connected with these misdeeds, responded by applauding tighter laws, regulations, and standards pushed through by legislators and officials. Notable examples include California’s landmark Nonprofit Integrity Act of 2004 as well as the overhaul by the IRS in 2008 of the Form 990 to include much more comprehensive reporting requirements from organizations about their governance policies and procedures.

Near the end of that decade, in *Ethics and Nonprofits* (Summer 2009) *Stanford Social Innovation Review*, law professor Deborah L. Rhode and ethics expert Amanda K. Packel, Esq. concluded that

“[u]nethical behavior remains a persistent problem in nonprofits and for-profits alike.” They cited troubling statistics on the public perception of, and trust in, nonprofits as well as from nonprofit employees’ observations of considerable unethical behavior within their own organizations.

The data included results from an eye-opening 2008 Brookings Institution study. “[A]bout 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.”

There was similarly depressing news from a 2006 Harris Poll. Researchers 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.’”

Also mentioned was a worrisome study – the 2007 National Nonprofit Ethics Survey – in which “half of employees had observed at least one act of misconduct in the previous year, roughly the same percentages as in the for-profit and government sectors.” And of the nonprofit employee-respondents who had observed misconduct, nearly 40 percent of them failed to report it. Why? They “believed that reporting would not lead to corrective action or they feared retaliation from management or peers.”

### ***Work Still To Do***

Fast forward to the current day.

“Trust in institutions generally seems to be falling, but trust in nonprofits seems to be declining even more rapidly,” notes Phil Buchanan, head of the Center for Effective Philanthropy. He links that growing distrust to a decrease in household giving in the U.S., which he calls “concerning.” He adds: “This all matters a lot, and it matters for donors — individual donors as well as foundation donors.”

Beth Breeze, the director of the Centre for Philanthropy at the UK’s University of Kent has some interesting observations that may apply globally. “Maintaining public trust is critical for foundations and nonprofits,” she explains, “because of the voluntary nature of philanthropy. It is difficult for citizens to completely disengage from business and government, but it is simple for them to ‘opt’ out of involvement with nonprofits and philanthropy if they lose faith in them.”

She adds: “The reasons why the public is losing trust in these organizations have grown much more ‘interesting’ than those cited decades ago.” For example, in the 1990s, “nonprofits commonly heard criticisms based on the perception that their leaders were too ‘amateurish’ to run an organization.”

Dr. Breeze thinks that now, “rather than being worried about good intentions that are imperfectly executed,” the general public “are worried about the bad intentions of nonprofits and, in particular, of their donors.” They believe “that philanthropists are ‘in it for themselves’ and that they’re motivated by a desire to advance their own agenda — and not by altruism.”

### ***Ethics Resources***

All of this means that there's quite a bit of improvement needed in terms of actual ethical conduct by nonprofits on the ground as well as in the public perception of the relative level of trustworthiness and integrity in our sector.

The 2009 *Stanford Social Innovation Review* article, [\*Ethics and Nonprofits\*](#), remains an excellent resource along with more recent discussions including:

- [\*Ethical Issues for Nonprofit Organizations\*](#) (January 3, 2020) Lena Eisenstein, *Board Effect Blog* [mentions the 2006-2008 studies noted in the 2009 SSIR article]
- [\*Code of ethics for nonprofits – Why your nonprofit may want to adopt a statement of values\*](#) *National Council of Nonprofits website* [includes a long list of relevant articles]

### ***Conclusion***

As we resume our own tales of ethically-challenged nonprofit behavior, please note that there's a perfectly serious and comprehensive compilation of hall-of-fame examples of what-not-to-do, courtesy of the University of San Francisco Masters of Nonprofit Administration faculty and students. "Doing Good and Doing It Well" is the motto of that prestigious graduate program.

The website section titled [\*Nonprofit Ethics\*](#) includes "The Nonprofit Unethical Case Studies: "The following are examples of the case studies we identify and analyze during our graduate studies. We share them with the public in the hope of promoting more ethical practices and avoid[ing] unethical and illegal pitfalls in our mission-driven works."

– Linda J. Rosenthal, J.D., *FPLG Information & Research Director*