



# **What Keeps You UP at Night**

Accountability and Integrity  
in Nonprofit Governance



# What is Accountability?

# Accountability Defined

**Accountability is the recognition and acceptance that one is answerable for whatever happens within an area of activity, regardless of cause. Accountability is not concerned with blame. It does not depend on circumstances.**

**Accountability is exclusive to the management function.**

# Where do you want to Be?



Legally compliant

Fully transparent

# To Whom are you Accountable and How Accountable are You?

- Regulators \_\_\_\_\_
- Government(s) \_\_\_\_\_
- Funders/donors \_\_\_\_\_
- Clients/customers \_\_\_\_\_
- Community \_\_\_\_\_
- Watchdog groups \_\_\_\_\_
- Other nonprofits \_\_\_\_\_
- Board/staff/volunteers \_\_\_\_\_
- **Yourself** \_\_\_\_\_

# Compliance - Federal

- The IRS and Congress
  - IRS Role . . . Congress > legislates requirements > IRS enforces
- Set conditions of tax exemption
- Regulate
  - Fundraising
  - Charitable giving
  - Political practice
- Require, reform and accept 990s

# Compliance - State

## Attorney General

- Enforces charitable purpose and use of resources
- Prevents waste of charitable assets
- Regulates fiduciary duties of loyalty and care
- Enforces donor sanctions on gifts and regulate charitable solicitations
- Sponsors legislation – Nonprofit Integrity Act

# Compliance – Board of Directors

- Law: trustees, directors, officers and key employees are managers of the nonprofit
- Principle of law: board has ultimate authority unless there are voting members, then members have ultimate authority

# Compliance – Board of Directors

## Duty of Care

- know and comply with state laws
- ask questions
- read materials to prepare for meetings, attend
- deliberate and decide
- make appropriate decisions
- review finances
- oversee compliance

## Duty of Loyalty

- disclose personal conflicts of interest or personal gain
- adhere to conflict of interest policy
- disclose information relevant to decision-making or oversight role
- no special benefits
- no impropriety
- no disclosure of confidential information about organization to others

# Compliance – Board of Directors

## Duty of Obligation

- no self-dealing
- actions consistent with mission
- values and regulations governing the organization
- compliance with all reporting rules
- proper use all documents governing the organization

# From Compliance to Good Governance

## The Legacy of SOX

- Independent audit
- Audit Committee  $\neq$  Finance Committee
- Board sets executive and CFO salaries
- More board accountability
- Prevent fraud
- Protect whistle blowers (statutory)
- Protect documents (statutory)



# **10 Principles & Strategies for Increasing Accountability and Transparency**

# Principle 1: Hold yourself Accountable

- Look at where you placed yourself on the compliance/transparency continuum for each stakeholder group. How are you modeling your values?
- Be brutally honest about performance and effectiveness.
- It's not about blame or failure .

## Principle 2: Create a Culture of Accountability

- Be crystal clear about how accountability works in your organization.
- Design a team contract with board members that includes how members will hold each other accountable.
- Reinvent the wheel: develop your own code of ethics.

## Principle 3: Support a Fiercely Independent Board

- Good is the enemy of great; passivity is the nemesis of accountability.
- Leave more time for questions than presentations at board and staff meetings.
- Schedule 15-minute executive sessions at the end of every board meeting.

## Principle 4: Comply with the Letter and the Spirit of the Law

- Are all reports scrupulously accurate?
- Is the 990 filed on time and made available to the public?
- Is the 990 an accurate statement of your organization's financial condition?
- File the 990 electronically to reduce errors.

# Principle 5: Disclose More than is Required by Law

## =Transparency

- Avoid filtering information that you share with stakeholders. Highlighting achievements is one thing; intentionally misleading stakeholders by cleverly spinning the information is deceptive.
- Own mistakes and missteps. Use them to educate funders and the public.

# Principle 6: Institute Internal Controls

- Develop and distribute a written whistle-blower policy to all staff, board, volunteers and clients.
- Encourage everyone to communicate any concerns about behaviors and practices within your organization by investigating concerns and reporting on what was discovered.

# Principle 7: Be a Whistleblower Yourself

- Break the conspiracy of silence around wrongdoing. Take a stand.
- Write a letter.
- Confront the organization. If necessary, report them to authorities.
- Step up your own oversight activities to avoid self-dealing and

# Principle 8: Build the Organization's Capacity to be Accountable

- Use an assessment tool to help determine where change is needed.
- Develop a common language of accountability through regular trainings.
- Talk about it.

## Principle 9: Fulfill your Mission

- Evaluate
- Produce results
- Stop doing things that don't work
- Tell on yourselves

# Principle 10: You can't Check it off your List

Accountability is not an outcome or an end point. It is a reflection of who we are and how we conduct our lives. Voluntarily adopt an organizational culture and professional practice of accountability and transparency.

# Helpful Publications

- *Sarbanes-Oxley for Nonprofits*, by Peggy M. Jackson, DPA, CPCU and Toni E. Fogarty, PhD., MPH, John Wiley and Sons, 2005
- *650 Essential Nonprofit Law Questions Answered*, by Bruce R. Hopkins, John Wiley and Sons, 2005
- Hopkins, Bruce R., *Nonprofit Law Made Easy*, John Wiley & Sons, Inc., 2005.
- Independent Sector, *Intermediate Sanctions: What you need to know about the IRS regulations*, October

# Resources

## Government Resources

- Internal Revenue Service
- [www.irs.gov](http://www.irs.gov)
- [www.irs.gov/charities](http://www.irs.gov/charities)
- [www.stay-exempt.org](http://www.stay-exempt.org)
- Electronic filing Form 990, Form 990-EZ, 1120 POL and form 8868 available at [www.irs.gov/efile/article/0,,id=108211,00.html](http://www.irs.gov/efile/article/0,,id=108211,00.html).
- Publication 4221 – Compliance Guide for 501(c)(3) Tax-Exempt Organizations [www.irs.gov/newsroom/article/0,,id=117986,00.html](http://www.irs.gov/newsroom/article/0,,id=117986,00.html).
- National Association of State Charity Officials (NASCO) [www.nasconet.org](http://www.nasconet.org)
- Charitable Trust Division, Office of the Attorney General [www.ag.ca.gov/charities/faq:html#charities-nonprofitintegirtyact2004intip](http://www.ag.ca.gov/charities/faq:html#charities-nonprofitintegirtyact2004intip)

## Other Resources

- Association of Certified Fraud Examiners [www.CFEnet.com](http://www.CFEnet.com)
- Independent Sector, Code of Ethics for Nonprofit Sector [www.independentsector.org](http://www.independentsector.org)
- National Center for Charitable Statistics (NCCS) Software for electronic filing of Form 990 is available at <http://nccsdataweb.urban.org>
- Nonprofit Risk Management Center Nonprofits CARES and Pillars of Accountability, risk management tools and materials are available at [www.nonprofitrisk.org](http://www.nonprofitrisk.org).

# Presenter

Liz Callahan

Executive Director

The CBO Center

c/o the Concord campus of CSU EB

4700 Ygnacio Valley Road

Concord, CA 94521

925-602-6760 (office)

925-602-6750 (fax)

925-708-2223 (mobile)

[liz@cbocenter.org](mailto:liz@cbocenter.org)

[www.cbocenter.org](http://www.cbocenter.org)