



Ethics and Accountability

1. Mission and Vision
2. Values
3. Code of Ethics
4. Diversity Statement
5. Conflicts of Interest
6. Confidentiality
7. Whistleblower Protection
8. Record Retention and Document Destruction



1. Mission and Vision

Introduction

The mission statement reflects the heart of the nonprofit organization. It explains why the organization exists and what it hopes to achieve in the future. It serves as the touchstone for all decisions and activities, whether carried out by the board, staff, or volunteers. The mission statement reflects the organization's essential nature, connects to its values, shapes programs and services, and provides the foundation for all fundraising activities. It is not a policy but a statement — the written expression of the organization's purpose that is referred to as a source of guidance and motivation.

The vision statement describes the future aspirations of the organization; it defines the dream, the long-term goals, and the overall direction of the organization. When crafting an effective vision statement, it is essential to focus on innovation and creativity while avoiding shortsightedness. The statement should not be based on future funding, obstacles, or current resources. Although the vision statement may describe an idealized goal, it should not be unrealistic; the best vision statements have reachable goals and serve to motivate the organization toward achieving these goals. A helpful way to think of a vision statement is as an outcome goal rather than as an organizational goal. For example, a food bank's vision statement might be "No one in our town will go hungry" rather than "Our food bank will feed everyone in need."

Two organizations may have similar vision statements but very different mission statements. For instance, a homeless shelter and a job-training center for the unemployed have quite different missions, but both seek to improve the lives of all community members.

Key Elements

- A mission statement captures the issue the organization wishes to focus on and adds a simple, powerful statement of what the organization is doing to address the issue.
- A clear mission statement is inspirational yet realistic, emotional as well as informative, concise and complete. It is positive and focuses on achievable accomplishments.
- Some mission statements take a practical approach and define the difference the organization makes, for whom, and how. Others create an image with just a few words. Regardless of the approach, a mission statement should be easy to remember and share.
- A mission statement serves as the starting point for other overarching statements and goals, such as a tag line for marketing or a case statement for fundraising.
- The mission statement is always about purpose. The vision statement is about goals.



- A vision statement should not be so unrealistic and lofty that it seems impossible; it should outline a reachable goal.

Practical Tips

- ✓ An organization's purpose is defined in its organization document, often briefly and broadly, to allow for programmatic flexibility – within certain parameters – over time. Consider developing a more compelling, more articulate mission statement for regular internal and external use.
- ✓ Be sure to use the mission statement as a tool when reaching out to constituents, recruiting board members and volunteers, convincing supporters of the difference the organization is out to make, and simply explaining the primary purpose and value of the organization to any potential or present stakeholder.
- ✓ Use the creation of the vision statement as a team-building tool. Have all board members share the ideals and values of what lies ahead for their work.
- ✓ Keep in mind the BHAG concept – dream about Big Hairy Audacious Goals.

Sample Mission Statements

The sample mission statements reveal different aspects of the organization through the way they are framed.

Sample #1

This simple, direct mission statement explains what the organization does and ends with a statement of a core value.

XYZ's mission is to provide assistance to individuals in need in the community through an informational network staffed by volunteers. Its belief is that no matter where you are, you are not alone.

Sample #2

This straightforward mission statement defines the organization's goals and values.

To provide customers with high quality water services at a reasonable cost while promoting the preservation of watershed land and aquifers.



Reused with permission from the South Central Connecticut Regional Water Authority.

Sample #3

This mission statement identifies various services and frames them within a common goal outlined in the last item. This, too, can be adapted easily to fit different types of organizations.

XYZ's purpose shall be

- to study care and maintain treatment and early childhood programs for children and their families
- to provide foster care for children with professional direction of the child's needs, and to provide social services to children and their families in their own homes
- such other and varied programs as may be found by the board to be necessary for the fostering of the physical, intellectual, and emotional development of all such children and their families

Sample #4

This mission statement inspires positive change beyond the organization's work.

The mission of XYZ is to promote full gender equality through education, development, and empowerment of leaders. The legacy of XYZ provides the foundation and the beacon to develop critical leadership skills and inspire others to become agents of positive change.

Reused with permission from the Alice Paul Institute.

Sample Vision Statements

These vision statements vary from envisioning to inspiring major societal changes.

Sample #1

This vision statement inspires every individual to make a difference.

Gender equality is a basic human right. The XYZ Institute seeks to fulfill the life-long mission of suffragist and equal rights activist XYZ to achieve full gender equality worldwide. The XYZ Institute is in a unique position to develop future generations of leaders and human rights activists by demonstrating the extraordinary difference one person can make.

Reused with permission from the Alice Paul Institute.



Sample #2

This vision statement envisions a better world.

Our goal is to live in a world without hunger.

Sample #3

This vision statement demonstrates compassion and is focused locally.

There is a greater community respect for the elderly in general and particularly for the frail and chronically ill elderly. The elderly in our community lead higher quality lives characterized by more independence, greater freedom of choice, and stronger sense of self-worth.

Suggested Resources

- Grace, Kay Sprinkel, Amy McClellan, and John A. Yankey. *The Nonprofit Board's Role in Mission, Planning, and Evaluation, Second Edition*. Washington, DC: BoardSource, 2009.
- Fisman, Raymond, Rakesh Khurana, and Edward Martenson. "Mission-Driven Governance." *Stanford Social Innovation Review*, Summer 2009.
- Hesselbein, Frances. *The Organization of the Future 2: Visions, Strategies, and Insights on Managing in a New Era*. San Francisco: Jossey-Bass, 2009.
- Independent Sector. "Checklist for Developing a Statement of Values and Code of Ethics." http://www.independentsector.org/code_checklist



Values

Introduction

Nonprofit organizations are mission-oriented and values-driven. As boards work to gain a sense of mission and create and reaffirm mission statements, it is imperative to know and express your organizational values. Values are embedded in the mission and vision of the organization; they should resonate with individuals who read the organization's materials or experience its products and services. Like a mission statement, a values statement is not a policy, yet it serves as a guide for the organization and its staff, board, and volunteers who deliver services to the community. It sets the standard for all aspects of the organization's programs and operations, from workplace environment and donor relations to client services and vendor relations.

Key Elements

- An overarching theme can serve as a helpful starting point for articulating the organization's values. For example, a school for children with learning difficulties might specify a strong belief that "Having a language-based learning disability does not predict academic failure." And, a cancer support group might begin with: "People are not defined by their disease."
- A values statement should accurately reveal the organization's unique qualities and character. While values often seem universal, organizations should identify those principles and beliefs that are most important to their mission. When using common values — such as integrity, quality, trust — they should be tailored to the particular organization and the people or purpose it serves.

Practical Tips

- ✓ The true benefit of values statements is the collective process and adoption of the values themselves. To make a values statement meaningful, the entire staff should be involved in the development phase. Active support and true ownership is always easier when those who must live by the rules have participated in their development.
- ✓ Involve the board appropriately in shaping the values statement. At the very least, the board will approve the final values statement and, of course, abide by it in its own deliberations and actions.
- ✓ In your values statement, incorporate the notion of inclusivity. Your personnel policies may already address equal employment opportunities (see Part VII: Personnel, Section 2), but non-discrimination is a much broader, values-based issue. Include your customers, clients, and members, as well as board and vendors in a wider-ranging statement about inclusivity.



Sample Values Statements

The first three values statements are clear and concise, beginning with a generic statement and ending with one that articulates values in terms of organizational practices. The fourth sample offers a policy related to inclusivity.

Sample #1

This example, which describes commonly articulated values, uses an acronym to aid in memorization.

STARS: Service, Teamwork, Accountability, Respect and Safety

Service: We provide prompt, courteous service to both our customers and our coworkers. We continually strive to make the customer experience better for all.

Teamwork: We build on each other's strengths. Through efficiency and innovation, we work together, operating as a team, in a spirit of mutual trust and openness, to achieve success.

Accountability: We are responsible for our actions. We are honest and ethical. Integrity is at the heart of everything we do.

Respect: We treat with respect everyone with whom we come in contact while doing our jobs. We promote diversity and embrace individuality.

Safety: We are a safe workforce. Safety is owned by each and every employee. We all benefit when safety is part of our daily lives.

Reused with permission from the South Central Connecticut Regional Water Authority.

Sample #2

This values statement distinguishes among the values that guide different aspects of the organization, from staff to services to the organization in general.

Staff

- We value everyone's opinion and contribution, with which we will create a shared vision for XYZ and share in the responsibility for making that vision a reality.
- We select the best possible people and make certain they are put in a position that maximizes their strengths and opportunity for success.



- We will strive to uphold the highest standards of conduct and ethics.
- We will maintain professional facilities while creating an enjoyable and fulfilling atmosphere for families, children, staff, and the community.
- We eliminate bureaucracy by empowering people to do what they feel is best for our clients, our organization, and our staff.
- We believe that we will succeed as an organization by holding ourselves accountable for our individual success and striving to be well-rounded employees with balanced lives.
- We will continually seek out and implement ideas that will help us remain a leader in the field of _____.

Services

- We believe that early intervention services should be available for all children, regardless of their family's ability to pay.
- We provide the highest quality services possible, and strive for excellence in everything we do.
- We know that families are the key to each child's long-term success, so we empower parents by encouraging them to be active participants in all therapy/group sessions and by giving them the information, encouragement, and support they need to care for their child.
- We promote early identification and make every attempt to maximize children's progress by helping them access services as soon as possible.
- We attempt to meet the needs of the whole child and family. When appropriate, we team multiple services from multiple disciplines.
- We strive to reach our goal to
 - meet the early intervention needs of the children who are referred to us. When we are not the best organization to meet their needs, we will provide referrals to other resources.
 - provide services to children over three years of age who are in need of medically based therapy. Our focus is on helping them achieve functional goals and life-long fitness.

Organization

- We know that even as we grow, we need to continue to act like a small organization that values interpersonal relationships, quality communication, and continuous learning.
- We maximize our impact and improve our sustainability through the pursuit of earned income opportunities because we believe a strong organization is a self-reliant organization.
- We recognize that we have a responsibility to the community. We are good stewards of the contributions from our donors and regularly and sincerely show our gratitude.
- We believe that taking calculated risks as individuals and as an organization encourages growth, new discovery, and continuous improvement.
- We recognize that the strategies needed to accomplish our values and principles change over time; therefore, we will remain flexible to achieve the ambitious goals we set for ourselves.
- We strive for mutually beneficial outcomes in all personal and professional relationships and collaborations.
- We strive to remain a healthy organization, and it is our desire to make all programs and services financially self-sufficient.



Sample #3

This sample begins with basic beliefs and then articulates how these beliefs are put into practice. It also addresses the unique role foundations play in philanthropy and the nonprofit sector.

XYZ Foundation believes the following:

- Philanthropy contributes to a thriving democracy and is a privilege and a responsibility.
- Grantmaking is a partnership with grantees and the public, conducted in the public trust.
- Philanthropy must be undertaken seriously and responsibly, adhering to all laws and principles of fiduciary responsibility.
- Thoughtful grantmaking is informed by different perspectives, opinions, and experiences.

In accordance with these beliefs, we do the following:

- We deal respectfully and courteously with our applicants, grantees, and donors as well as with those seeking information about our programs.
- We honor the confidentiality of our applicants, grantees, and donors and exercise discretion in our communications.
- We are clear and accessible about our goals and grantmaking processes, and make information about our application requirements, funding priorities, and programs available on a timely basis.
- We adhere to the highest ethical, legal, and fiduciary standards in our operations. We recognize and disclose conflicts of interest and work to avoid perceived conflicts of interest. We maintain active oversight of all financial and investment matters.
- We regularly assess our mission and practices, including periodic review of priorities, policies, board activity, communications, and the impact of our grantmaking.
- We seek to continually educate ourselves and expose ourselves to different perspectives, opinions, and experiences, and, where appropriate, to share our learning and experience with our grantees, the public, and government officials.

These Guiding Beliefs and Principles are reused with permission from the Council of New Jersey Grantmakers

Sample #4

This policy approaches the issue in terms of organizational inclusivity and extends to more than employment opportunities.

XYZ is committed to promoting a wide opportunity of access at all levels. It recognizes that this policy will enhance and enrich all concerned by the inclusivity of experience gained.



In accordance with state, federal, and local laws, XYZ prohibits discrimination because of race, disability, color, creed, religion, gender, age, sexual orientation, national origin, ancestry, citizenship, military or veteran status, or any other protected classification. This policy applies to all activities of XYZ, including but not limited to employment, selection of volunteers, service delivery, purchasing, and selecting vendors or consultants.

Suggested Resources

- Grace, Kay Sprinkel, Amy McClellan, and John A. Yankey. *The Nonprofit Board's Role in Mission, Planning, and Evaluation, Second Edition*. Washington, DC: BoardSource, 2009.
- Fisman, Raymond, Rakesh Khurana, and Edward Martenson. "Mission-Driven Governance." *Stanford Social Innovation Review*, Summer 2009.
- Hesselbein, Frances. *The Organization of the Future 2: Visions, Strategies, and Insights on Managing in a New Era*. San Francisco: Jossey-Bass, 2009.
- Independent Sector. "Checklist for Developing a Statement of Values and Code of Ethics." http://www.independentsector.org/code_checklist



Sample Codes of Ethics

Introduction

There has been increasing concern about ethical behavior in nonprofit — particularly charitable — organizations in recent years. Public scandals in the nonprofit sector have drawn attention to the need for an increased level of board accountability. In response, many organizations have developed codes of ethics. These documents encompass the values of the organization and provide a code of conduct for employees and volunteers. While a values statement, discussed above, guides the organization in a strategic, fundamental way, codes of ethics shape the actions, behaviors, and decision making of an organization in a more explicit way. Although a code of ethics by itself cannot prevent wrongdoing, it conveys a strong message both internally and externally about the culture and work of the organization.

Key Elements

- A code of ethics serves as an overarching statement for other policies that establish standards of integrity and accountability.
- A code of ethics should outline the process and/or mechanism for implementing the defined culture and values within the organization from top to bottom. Sometimes a values statement may be incorporated into the code of ethics.
- A code of ethics is often general in nature. Some issues, such as confidentiality, conflict of interest, and nepotism, may be addressed in separate policies (see list of contents to find samples of these more specific topics).

Practical Tips

- ✓ Define what ethical behavior means for your organization, and clarify accepted professional standards.
- ✓ Separate staff and board issues. Board members and staff members often get confronted with different situations based on their role vis-à-vis the organization, its constituents, and the community at large.
- ✓ When discussing the code with staff and board members, it is often useful to provide examples of unacceptable behavior.
- ✓ As a way to stress the importance of the code, some organizations request a signature from board and staff members as a sign of understanding and acceptance of the standards.
- ✓ Once the code is established, it should be reviewed periodically by the staff and board for possible revision. In this way, the language of the code will continue to serve the expectations and needs of



the organization.

Sample Codes of Ethics

The six samples range from very general to exceedingly specific, with each reflecting the organization's values and culture.

Sample #1

This brief statement provides broad ethical guidelines and expectations.

ETHICS POLICY

XYZ believes strongly that its members must uphold the highest standards of ethical, professional behavior, and to

- hold paramount the safety, health, and welfare of the public in the performance of professional duties
- act in such a manner as to uphold and enhance personal and professional honor, integrity, and dignity of the profession
- treat with respect and consideration all persons, regardless of race, religion, gender, abilities, age, or national origin
- engage in carrying out XYZ's mission in a professional manner
- collaborate with and support other professionals in carrying out XYZ's mission
- build professional reputations on the merit of services and refrain from competing unfairly with others

Sample #2

This policy establishes a formal statement about promoting ethical conduct.

POLICY FOR THE PROMOTION OF ETHICAL CONDUCT

As a nonprofit organization at the forefront of [purpose of organization], XYZ's policy is to uphold the highest legal, ethical, and moral standards. Our donors and volunteers support XYZ because they trust us to be good stewards of their resources, and to uphold rigorous standards of conduct. Our reputation for integrity and excellence requires the careful observance of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity.



XYZ will comply with all applicable laws and regulations and expects its directors, officers, and employees to conduct business in accordance with the letter and spirit of all relevant laws; to refrain from any illegal, dishonest, or unethical conduct; to act in a professional, businesslike manner; and to treat others with respect. Directors and officers should not use their positions to obtain unreasonable or excessive services or expertise from XYZ's staff.

In general, the use of good judgment based on high ethical principles will guide directors, officers, and employees with respect to lines of acceptable conduct. However, if a situation arises where it is difficult to determine the proper course of conduct, or where questions arise concerning the propriety of certain conduct by an individual or others, the matter should be brought to the attention of XYZ. Employees should contact their immediate supervisor and, if necessary, the director of human resources. Board members should raise any such concerns with the chair or the treasurer of XYZ's board.

In all questions involving ethics and conduct, the board will make relevant determinations, except that any individual whose conduct is at issue will not participate in such decisions.

Sample #3

This sample is a short statement affirming that a high level of integrity and caring is expected from the board and staff.

CODE OF ETHICS

XYZ's mission can only be realized through a common code of ethics upheld by our officers, board of directors, and staff.

- We expect integrity, honesty, and trustworthiness in our work; courage in our decisions; and dedication to XYZ's values and beliefs.
- We expect responsible action on behalf of the organization and are accountable and transparent to our constituents and to one another. We share information when appropriate without sacrificing confidentiality.
- We expect to be treated and to treat others with respect. We respect the opinions of and the differences among individuals.
- We expect fairness to be evident in our actions internally and externally. We are equitable in our decisions and mindful of their impact on other groups and people.
- We expect our actions to demonstrate our care for others and the community as a whole. We support each other in a humane manner. We care about the well-being of each other, the community, and XYZ organization.



Sample #4

This ethics policy sets an affirmative tone through the introductory phrase of “We will do the following.”

CODE OF ETHICS

We, as XYZ professionals (staff and board members), dedicate ourselves to carrying out the mission of this organization. We will do the following:

1. Recognize that the chief function of XYZ at all times is to serve the best interests of our constituency.
2. Accept as a personal duty the responsibility to keep up-to-date on emerging issues and to conduct ourselves with professional competence, fairness, impartiality, efficiency, and effectiveness.
3. Respect the structure and responsibilities of the board, provide them with facts and advice as a basis for their making policy decisions, and uphold and implement policies adopted by the board.
4. Keep the community informed about issues affecting it.
5. Conduct our organizational and operational duties with positive leadership exemplified by open communication, creativity, dedication, and compassion.
6. Exercise whatever discretionary authority we have under the law to carry out the mission of the organization.
7. Serve with respect, concern, courtesy, and responsiveness in carrying out the organization’s mission.
8. Demonstrate the highest standards of personal integrity, truthfulness, honesty, and fortitude in all our activities in order to inspire confidence and trust in our activities.
9. Avoid any interest or activity that is in conflict with the conduct of our official duties.
10. Respect and protect privileged information to which we have access in the course of our official duties.
11. Strive for personal and professional excellence and encourage the professional developments of others.

Sample #5

This code of conduct sets its standard by stating what the board and key staff will not do. It also includes a signature line and reporting procedures.

STATEMENT OF PERSONAL AND PROFESSIONAL STANDARDS OF CONDUCT



It is the intent of XYZ to strive for the highest ethical conduct from all board and staff. The leadership is particularly sensitive to individuals who hold management and governance positions of trust and confidence in fulfilling the mission and goals of the organization. These sensitive positions include officers, key senior staff members designated by the chief executive, and members of the board.

In an effort to achieve the highest standards of conduct, each officer, key staff member, and board member is requested to acknowledge (by signing) the following adopted Code of Ethics by [month/day] each year. This acknowledgement will be kept on file in the human resource department.

All officers, key staff members, and members of the board of XYZ are required and expected to exercise the highest ethical standards of conduct and practice fundamental honesty at all times.

In support of XYZ's standards of high ethical conduct, each officer, key staff member, and board member WILL NOT

- deceive, defraud, or mislead XYZ board members, officers, staff members, managers, supervisors, or other associates, or those with whom XYZ has business or other relationships
- misrepresent XYZ in any negotiations, dealings, contracts, or agreements
- divulge or release any information of a proprietary nature relating to XYZ's plans, mission, or operational databases without appropriate approval
- obtain a personal advantage or benefit due to relationships established by any officer, senior staff member, or board member by use of the organization's name
- accept individual gifts of any kind in excess of \$[100], in connection with the officer's, key staff member's, or board member's relationship with XYZ. All such gifts are to be reported to the chief financial officer who shall divulge gifts received during the calendar year to the audit committee
- withhold their best efforts to perform their duties to acceptable standards
- engage in unethical business practices of any type
- use XYZ property, financial resources, or services of XYZ personnel for personal benefit
- violate any applicable laws or ordinances

Infractions of this Statement of Personal and Professional Standards of Conduct are to be reported directly to any member of the audit committee who shall, in his or her determination, bring the infraction to the full executive committee.

Signature _____

Date _____

Name (please print) _____



Sample #6

This comprehensive code of ethics covers many aspects of organizational management and oversight, beginning with a statement of integrity and including a specific section on the board.

CODE OF ETHICAL CONDUCT

I. Personal and Professional Integrity

All staff, board members, and volunteers of XYZ act with honesty, integrity, and openness in all their dealings as representatives of the organization. The organization promotes a working environment that values respect, fairness, and integrity.

II. Mission

XYZ has a clearly stated mission and purpose, approved by the board, in pursuit of the public good. All of its programs support that mission and all who work for or on behalf of the organization understand and are loyal to that mission and purpose.

III. Governance

XYZ has an active governing body, the board, which is responsible for setting the mission and strategic direction of the organization and oversight of the finances, operations, and policies of XYZ. The board

- ensures that its members have the requisite skills and experience to carry out their duties and that all members understand and fulfill their governance duties acting for the benefit of XYZ and its public purpose
- has a conflict-of-interest policy that ensures that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal, or other means
- has a statement of personal commitment that provides attestation to the commitment to XYZ's goals and values
- is responsible for the hiring, firing, and regular review of the performance of its chief executive, and ensures that the compensation of the chief executive, the chief financial officer, and other senior management positions as the board deems appropriate is reasonable
- ensures that the chief executive and appropriate staff provide the board with timely and comprehensive information so that the board can effectively carry out its duties
- ensures that XYZ conducts all transactions and dealings with integrity and honesty
- ensures that XYZ promotes working relationships with board members, staff, volunteers, and program beneficiaries that are based on mutual respect, fairness, and openness
- ensures that the organization is fair and inclusive in its hiring and promotion policies and practices for all board, staff, and volunteer positions
- ensures that policies of XYZ are in writing, clearly articulated, and officially adopted
- is responsible for engaging independent auditors to perform an annual audit of XYZ's financial statements, and has an audit committee that is responsible for overseeing the reliability of financial reporting (usually the responsibility of the finance committee), including the



effectiveness of internal control over financial reporting, reviewing, and discussing the annual audited financial statements to determine whether they are complete and consistent with operational and other information known to the committee members, understanding significant risks and exposures and management's response to minimize the risks, and understanding the audit scope and approving audit and non-audit services

- ensures that the resources of XYZ are responsibly and prudently managed
- ensures that XYZ has the capacity to carry out its programs effectively

IV. Responsible Stewardship

XYZ manages its funds responsibly and prudently. This should include the following considerations:

- Spends an adequate amount on administrative expenses to ensure effective accounting systems, internal controls, competent staff, and other expenditures critical to professional management
- Compensates staff and any others who may receive compensation, reasonably and appropriately
- Knows that solicitation of funds has reasonable fundraising costs, recognizing the variety of factors that affect fundraising costs
- Does not accumulate operating funds excessively
- Draws prudently from endowment funds consistent with donor intent and to support the public purpose of XYZ
- Ensures that all spending practices and policies are fair, reasonable, and appropriate to fulfill the mission of XYZ
- Ensures that all financial reports are factually accurate and complete in all material respects

V. Openness and Disclosure

XYZ provides comprehensive and timely information to the public, the media, and all stakeholders and is responsive in a timely manner to reasonable requests for information. All information about XYZ will fully and honestly reflect the policies and practices of the organization. Basic informational data about XYZ, such as the Form 990, will be posted online or otherwise made available to the public. All solicitation materials accurately represent XYZ's policies and practices and will reflect the dignity of program beneficiaries. All financial, organizational, and program reports will be complete and accurate in all material respects.

VI. Legal Compliance

XYZ is knowledgeable of, and complies with, laws and regulations.

VII. Program Evaluation

XYZ regularly reviews program effectiveness and has mechanisms to incorporate lessons learned into future programs. The organization is committed to improving program and organizational effectiveness and develops mechanisms to promote learning from its activities and the field. XYZ is responsive to changes in its field of activity and is responsive to the needs of its constituencies.



VIII. Inclusiveness and Diversity

XYZ has a policy of promoting inclusiveness and its staff, board, and volunteers reflect diversity in order to enrich its programmatic effectiveness. XYZ takes meaningful steps to promote inclusiveness in its hiring, retention, promotion, board recruitment, and constituencies served.

IX. Fundraising

XYZ solicitation of funds from the public or from donor institutions uses material that is truthful about the organization. XYZ respects the privacy concerns of individual donors and expends funds consistent with donor intent. XYZ discloses important and relevant information to potential donors.

In raising funds from the public, XYZ will respect the rights of donors, as follows:

Donors will be informed of the mission of XYZ, the way the resources will be used, and their capacity to use donations effectively for their intended purpose. Further, they will

- be informed of the identity of those serving on XYZ's governing board and to expect the board to exercise prudent judgment in its stewardship responsibilities
- have access to XYZ's most recent financial reports
- be assured their gifts will be used for purposes for which they are given
- receive appropriate acknowledgment and recognition
- be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law
- be approached in a professional manner
- be informed whether those seeking donations are volunteers, employees of XYZ, or hired solicitors
- have the opportunity for their names to be deleted from mailing lists that XYZ may intend to share
- be encouraged to ask questions when making a donation and to receive prompt, truthful, and forthright answers.

Reporting Responsibility

It is the responsibility of all directors, officers, and employees to comply with the code of ethical conduct and to report violations or suspected violations to the compliance officer ([secretary/treasurer]) in accordance with the whistleblower policy. The compliance officer will notify the sender and acknowledge receipt of the reported violation or suspected violation within five business days, unless the submission of the violation is anonymous. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.



Suggested Resources

- “Compendium of Standards, Codes, and Principles of Nonprofit and Philanthropic Organizations.” www.independentsector.org/issues/accountability/standards2.html
- Ethics Resource Center: www.ethics.org.
- Paul, Sarah E. and Daniel L. Kurtz. *Managing Conflicts of Interest: The Board’s Guide to Unbiased Decision Making, Third Edition*. Washington, DC: BoardSource, 2013.



Sample Diversity Statements

Introduction

BoardSource believes that exceptional nonprofit boards recognize the role diversity plays in an organization's success. These boards see the correlation among mission, strategy, and board composition and understand that establishing an inclusive organization starts with establishing a diverse and inclusive board.

The purpose of a diversity statement is to publicly declare the commitment of your organization to welcome employees, board members, and any other individuals, vendors, or collaborators who — regardless of their background — help make the organization friendlier and more effective in meeting its goals.

It is not enough for the board to include members from diverse backgrounds. It is essential to create a culture where everyone feels valued, respected, and supported regardless of where they come from. Diversity describes our individual differences. Inclusion defines how we treat each other.

Key Elements

- The board is responsible for drafting its own policies as well as those that guide the chief executive in handling major organizational issues. For diversity and inclusion, the tone starts at the top: It is up to the board to ensure that necessary policies and guidelines exist and that they are followed and enforced.
- Define the terms diversity and inclusion in your policy.
- Include guidelines for dealing with vendors, customers, clients, and any other individuals the organization interacts with.
- Indicate that the policy applies to all employment practices, including but not limited to recruitment, hiring, training and development, promotion, transfer, termination, layoff, compensation, benefits, social and recreational programs, and all other conditions and privileges of employment in accordance with applicable federal, state, and local laws.

Practical Tips

- ✓ Do not expect any individual to represent a specific segment of society or a constituency. Focus on individuals who bring their knowledge, skills, experience, and sensitivities to your organization.
- ✓ Train staff and board on diversity issues and what that means in your organization. Have a skillful facilitator lead the discussion on sensitive issues.



- ✓ Use a matrix to identify the backgrounds and qualities you are seeking for the board.
- ✓ Some organizations address diversity and inclusion issues in the general ethics statement; however, having a separate policy emphasizes the importance of the issue.
- ✓ Include a diversity aspect in the evaluation of the chief executive's performance.

Sample Diversity Statements

These sample policies and statements address specific issues and broad concepts. Look at all of them to get ideas for writing your own policy.

Sample #1

This policy is a short statement of tolerance.

XYZ promotes understanding of individual differences in order to eliminate all forms of intolerance and to help build a more diverse and just community within which we operate.

We promote diversity that reflects the racial, ethnic, and other characteristics of those living in the community.

Our beliefs are based on mutual respect, tolerance, and encouragement, and we are working to help each other live up to these principles.

Sample #2

This statement is inspirational for all boards.

The best boards are composed of individuals who bring a variety of skills, perspectives, backgrounds, and resources to tackle the complex and strategic challenges confronting their organizations. The variety of viewpoints that comes from different life experiences and cultures enhances the discussions and decisions of boards and often adds a much-needed layer of accountability to foundations and nonprofits for their constituents.

Sample #3

This statement expresses the board's desire to accept differences.



Diversity of Opinions Statement

The XYZ board practices a culture of openness and encourages candid communication.

- The more diversity of opinions and backgrounds the board possesses, the better foundation it has for sound decisions.
 - Board members' different perspectives help us address all sides of an issue.
 - Even if “difference” is desired, there are times when the majority must take the lead. It is up to the chair to keep the peace and integrate all opinions.
- A culture of openness and candor defines communication.
 - Rich communication dares to discuss the elephants in the room.
 - Sincere conversation, however, does not include insults or hurtful words.
- Divergent views are explored in a respectful rather than adversarial manner.
 - A debate is always welcome; arguments are kept out.
 - At times board members need to weigh their words in order not to offend anyone.
 - The board is cognizant of unacceptable terms or vocabulary.

Sample #4

This sample is a statement on an organization's principles concerning diversity.

Diversity is valuing, appreciating, and effectively utilizing the talents of people with a variety of backgrounds, experiences, ethnicities and perspectives.

Individuals have many dimensions which include age, appearance, beliefs, education, ethnic origin, gender, ideas, job classification, personality, physical ability, political views, race, religion, sexual orientation and more. We are committed to creating and sustaining an environment that values each individual.

Diversity is a way of life, not just a one-time initiative. It is an ongoing responsibility with the highest priority. To that end, we strive to attract, hire, develop and retain employees throughout the RWA who support our commitment.

By developing our skills to manage diversity, we will be able to better serve our customers and communities by exposure to the wider range of ideas and perspectives that can be found only in an organization where every individual is valued.

Reused with permission from the South Central Connecticut Regional Water Authority.



Sample #5

This sample policy is directed to vendors and other business affiliates and states that the organization supports minority-owned businesses.

Vendor Policy

When selecting vendors, XYZ is committed to doing business with all people and companies, without bias. We openly seek bids and request RFPs from a vast variety of sources. We give maximum opportunity to minority, women, and disabled veteran-owned companies. We do not automatically renew contracts but evaluate the performance of our vendors according to the following factors:

- Ability to provide quality product in a timely and consistent manner
- Responsiveness to emergencies
- Competitive pricing
- Favorable terms and conditions
- Order accuracy rate
- Delivery lead times
- Reliable support services

Suggested Resources

- “Vital Voices: Lessons Learned from Board Members of Color.” BoardSource Learning Center Community Resource. www.boardsource.org
- Jones, Allison. “Round-Up: Tackling Diversity in the Nonprofit.” 2011 <http://www.allisonj.org/2011/05/16/round-up-tackling-diversity-in-the-nonprofit-sector/>
- Thurman, Rosetta. “More on Nonprofit Diversity: Rethink the Rules.” <http://www.rosettathurman.com/2011/05/rethink-your-rules/>



Sample Conflict-of-Interest Policies

Introduction

A conflict of interest exists when a board member or employee has a personal interest that may influence him or her when making a decision for the organization. While the law focuses primarily on financial interests and provides some guidelines, nonprofit organizations contend with a variety of potential and perceived conflicts of interest, only some of which may be detrimental to the organization. The key for nonprofit boards is *not* to try to avoid all possible conflict-of-interest situations, which would be impossible; rather, boards need to identify and follow a process for handling them effectively.

Both board members and employees must abide by conflict-of-interest policies. Generally, conflict-of-interest policies should clarify what a conflict of interest is, what board members and employees must do to disclose possible conflicts of interest, and what board members and employees should do to avoid acting inappropriately if and when a conflict of interest does arise. How an organization ensures open and honest deliberation affects all aspects of its operations and is critical to making good decisions, avoiding legal problems and public scandals, and remaining focused on the organization's mission.

Key Elements

- Every organization needs a conflict-of-interest policy. Remember, conflicts of interest are not uncommon and not inherently illegal. Rather, they create situations that need careful attention and a process for handling them appropriately.
- Conflicts are not only financial in nature. Issue conflicts (for example, if a board member takes a position or supports another organization that is counter to the organization's mission and principles) may have to be addressed as well.
- Conflict-of-interest policies should be applicable to the board and key staff, at a minimum; they may also include other employees and key constituents with influence over the organization (e.g., major donors).
- A conflict-of-interest policy should clearly define a consistent process for dealing with conflicts. This process should include, at a minimum, disclosure and recusal. It also often includes the expectation for the board member in question to leave the room for the discussion and voting and, in extreme situations, to resign.
- Ultimately, the policy should clarify the consequences for violating the policy, which may include dismissal.



- Some organizations, instead of using the term conflict of interest, use a term *duality of interest*. A duality of interest recognizes that, under certain circumstances, even if a board member has multiple interests, those interests do not necessarily create a conflicting situation.

Practical Tips

- ✓ Conflicts of interest are sometimes quite obvious and other times more obscure. To provide better guidance, consider including examples of what constitutes a conflict of interest for the organization. These examples may be lengthy, organization-specific, and/or distinguish among real, perceived, or potential conflicts.
- ✓ On the administrative side, determine who will maintain proper documentation of signed conflict-of-interest disclosure statements, as well as who has responsibility for determining whether or not an actual conflict of interest occurs. Often, these responsibilities are shared between the chief executive and a board committee.
- ✓ Keep in mind that many conflicts of interest arise unexpectedly and can't be “planned” for. They may only become apparent during board discussions on a specific topic
- ✓ Busy and engaged people, like board members, are involved in various activities in the community, and these affiliations are likely to collide at times. At least annually, consider requiring board and staff members to disclose — in writing — any relationships that might constitute a conflict of interest. By openly and preemptively disclosing these potentially conflicting connections, the organization is better able to carry out proper due diligence.

Sample Conflict-of-Interest Policies

The extensive collection of samples provides a range of policies and forms, giving everything from general guidance on issues related to standards of operation, to detailed examples of conflicts of interest, processes for disclosure, and even foundation-specific guidelines.

Sample #1

This brief policy provides general guidelines and definitions related to conflicts of interest.

CONFLICT-OF-INTEREST POLICY

Employees and board members have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. This policy establishes only the



framework within which XYZ wishes its business to operate. The purpose of these guidelines is to provide general direction so that board members and employees can seek further clarification on issues related to the subject of acceptable standards of operation.

An actual or potential conflict of interest occurs when a board member or an employee is in a position to influence a decision that may result in personal gain or gain for a relative as a result of XYZ's business dealings. For the purpose of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the board member or employee is similar to that of persons who are related by blood or marriage.

No presumption of a conflict is created by the mere existence of a relationship with outside firms. However, if a board member or an employee has any influence on any material business transactions, it is imperative that he or she discloses to an officer of the organization as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where a board member, an employee, or a relative has a significant ownership in a firm with which XYZ does business, but also when a board member, an employee, or a relative receives any kickback, bribe, substantial gift, or special consideration as a result of any transaction or business dealings involving XYZ.

Sample #2

This solid example of a conflict-of-interest statement begins by explaining why a conflict-of-interest policy is important, and then defines key components of the policy and the process for handling conflicts.

CONFLICT-OF-INTEREST STATEMENT

Reason for Statement

XYZ, as a nonprofit, tax-exempt organization, depends on charitable contributions from the public. Maintenance of its tax-exempt status is important both for its continued financial stability and for the receipt of contributions and public support. Therefore, the operations of XYZ first must fulfill all legal requirements. They also depend on the public trust and thus are subject to scrutiny by and accountability to both governmental authorities and members of the public.

Consequently, there exists between XYZ and its board, officers, and management employees a fiduciary duty that carries with it a broad and unbending duty of loyalty and fidelity. The board, officers, and management employees have the responsibility of administering the affairs of XYZ honestly and prudently, and of exercising their best care, skill, and judgment for the sole benefit of XYZ. Those persons shall exercise the utmost good faith in all transactions involved in their duties, and they shall not use their positions with XYZ or



knowledge gained there from for their personal benefit. The interests of the organization must have the first priority in all decisions and actions.

Persons Concerned

This statement is directed not only to board members and officers, but to all employees who can influence the actions of XYZ. For example, this includes all who make purchasing decisions, all other persons who might be described as “management personnel,” and all who have proprietary information concerning XYZ.

Key Areas in Which Conflict May Arise

Conflicts of interest may arise in the relations of directors, officers, and management employees with any of the following third parties:

- Persons and firms supplying goods and services to XYZ
- Persons and firms from whom XYZ leases property and equipment
- Persons and firms with whom XYZ is dealing or planning to deal in connection with the gift, purchase or sale of real estate, securities, or other property
- Competing or affinity organizations
- Donors and others supporting XYZ
- Recipients of grants from XYZ
- Agencies, organizations, and associations that affect the operations of XYZ
- Family members, friends, and other employees

Nature of Conflicting Interest

A material conflicting interest may be defined as an interest, direct or indirect, with any persons and firms mentioned in Section [ABC]. Such an interest might arise, for example, through

- owning stock or holding debt or other proprietary interests in any third party dealing with XYZ
- holding office, serving on the board, participating in management, or being otherwise employed (or formerly employed) by any third party dealing with XYZ
- receiving remuneration for services with respect to individual transactions involving XYZ
- using XYZ’s time, personnel, equipment, supplies, or good will other than for approved XYZ activities, programs, and purposes
- receiving personal gifts or loans from third parties dealing with XYZ. Receipt of any gift is disapproved except gifts of nominal value that could not be refused without discourtesy. No personal gift of money should ever be accepted.

Interpretation of This Statement of Policy

The areas of conflicting interest listed in Section [ABC], and the relations in those areas that may give rise to conflict, as listed in Section [DEF], are not exhaustive. Conceivably, conflicts might arise in other areas or through other relations. It is assumed that the trustees, officers, and management employees will recognize such areas and relation by analogy.



The fact that one of the interests described in Section [DEF] exists does not mean necessarily that a conflict exists, or that the conflict, if it exists, is material enough to be of practical importance, or if material that upon full disclosure of all relevant facts and circumstances that it is necessarily adverse to the interests of XYZ.

However, it is the policy of the board that the existence of any of the interests described in Section [DEF] shall be disclosed on a timely basis and always before any transaction is consummated. It shall be the continuing responsibility of board, officers, and management employees to scrutinize their transactions and outside business interests and relationships for potential conflicts and to immediately make such disclosures.

Disclosure Policy and Procedure

Disclosure should be made according to XYZ standards. Transactions with related parties may be undertaken only if all of the following are observed:

A material transaction is fully disclosed in the audited financial statements of the organization;

- The related party is excluded from the discussion and approval of such transaction;
- A competitive bid or comparable valuation exists; and
- The organization's board has acted upon and demonstrated that the transaction is in the best interest of the organization.

Staff disclosures should be made to the chief executive (or if he or she is the one with the conflict, then to the designated committee), who shall determine whether a conflict exists and is material, and if the matters are material, bring them to the attention of the designated committee.

Disclosure involving directors should be made to the designated committee.

The board shall determine whether a conflict exists and is material, and in the presence of an existing material conflict, whether the contemplated transaction may be authorized as just, fair, and reasonable to XYZ. The decision of the board on these matters will rest in their sole discretion, and their concern must be the welfare of XYZ and the advancement of its purpose.

Sample #3

This comprehensive conflict-of-interest policy follows a traditional legal format and is recommended by the IRS. Part V, section 5 of IRS Form 1023 asks questions to determine if the organization has procedures on handling conflicts and makes recommendations on creating a conflict-of-interest policy if one does not exist.

SAMPLE IRS CONFLICT-OF-INTEREST POLICY



Article I: Purpose

The purpose of the conflict-of-interest policy is to protect this tax-exempt organization's (organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Article II: Definitions

1. Interested Person

Any director, principal officer, or member of a committee with governing board–delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

[For networked organizations]

If a person is an interested person with respect to any entity in the network of which the organization is a part, he or she is an interested person with respect to all entities in the network.

2. Financial Interest

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family

- a) an ownership or investment interest in any entity with which the organization has a transaction or arrangement
- b) a compensation arrangement with the organization or with any entity or individual with which the organization has a transaction or arrangement
- c) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the organization is negotiating a transaction or arrangement

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

Article III: Procedures

1. Duty To Disclose

In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose



all material facts to the directors and members of committees with governing board-delegated powers considering the proposed transaction or arrangement.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon.

The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Conflict of Interest

- a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.
- b. The chair of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the governing board or committee shall determine whether the organization can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the organization's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

4. Violations of the Conflicts-of-Interest Policy

- a. If the governing board or committee has reasonable cause to believe a member has failed to disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

Article IV: Records of Proceedings

The minutes of the governing board and all committees with board-delegated powers shall contain

- a. the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed



- b. the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings

Article V: Compensation

- a. A voting member of the governing board who receives compensation, directly or indirectly, from the organization for services is precluded from voting on matters pertaining to that member's compensation.
- b. A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the organization for services is precluded from voting on matters pertaining to that member's compensation.
- c. No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

[For networked organizations]

- d. People who receive compensation from the organization, whether directly or indirectly or as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No person, either individually or collectively, is prohibited from providing information to any committee regarding compensation.]

Article VI: Annual Statements

Each director, principal officer, and member of a committee with governing board–delegated powers shall annually sign a statement that affirms such person

- a. has received a copy of the conflict-of-interest policy
- b. has read and understands the policy
- c. has agreed to comply with the policy
- d. understands the organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes

Article VII: Periodic Reviews

To ensure the organization operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's-length bargaining
- b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the organization's written policies, are properly recorded, reflect reasonable investment or



payments for goods and services, further charitable purposes, and do not result in inurement, impermissible private benefit, or in an excess benefit transaction

Article VIII: Use of Outside Experts

When conducting the periodic reviews as provided for in Article VII, the organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

Sample #4

This sample is a disclosure form, asking individuals to list their affiliations with other entities that might potentially affect their independent decision making.

CONFLICT-OF-INTEREST DISCLOSURE STATEMENT

Please initial in the space at the end of Item A or complete Item B, whichever is appropriate; complete the balance of the form; sign and date the statement; and return it to the board chair.

A. I am not aware of any relationship or interest or situation involving my family or myself that might result in, or give the appearance of being, a conflict of interest between such family member or me on one hand and XYZ on the other.

Initials: _____

B. The following are relationships, interests, or situations involving me or a member of my family that I consider might result in or appear to be an actual, apparent, or potential conflict of interest between such family members or myself on one hand and XYZ on the other.

Initials: _____

Corporate (either nonprofit or for-profit) directorships, positions, and employment:

Memberships in the following organizations:

Contracts, business activities, and investments with or in the following organizations:



Other relationships and activities:

My primary business or occupation at this time:

I have read and understand XYZ's conflict-of-interest policy and agree to be bound by it. I will promptly inform the board chair of XYZ of any material change that develops in the information contained in the foregoing statement.

Type/Print Name

Signature

Date

Sample #5

This more comprehensive disclosure statement is designed to also identify potential conflicts of interest based on a more expansive definition of affiliated persons.

CONFLICT-OF-INTEREST DISCLOSURE QUESTIONNAIRE

For purposes herein, "affiliated persons" include the following:

- Any immediate family member,
- Any corporation or organization of which you are an officer or a partner or are, directly or indirectly, the beneficial owner of 10 percent or more of any class or equity securities, or
- Any trust or other estate in which you have a substantial beneficial interest or as to which you serve as a trustee or in a similar capacity.

1. Name (please print)

2. Capacity: national board executive committee officer
 committee member national staff
 other, specify: _____

3. Have you or any of your affiliated persons provided services or property to XYZ in the past year? () Yes () No



If yes, please describe the nature of the services or property:

4. Have you or any of your affiliated persons purchased services or property from XYZ in the past year? Yes No

If yes, please describe the purchased services or property:

5. Please indicate whether you or any of your affiliated persons had, have, or will have any direct or indirect interest in any business transaction(s) in the past year to which XYZ was or is a party.
 Yes No

If yes, describe the transaction(s):

6. Were you or any of your affiliated persons indebted to pay money to XYZ at any time in the past year (other than travel advances or the like)? Yes No

If yes, please describe the indebtedness:

7. In the past year, did you or any of your affiliated persons receive, or were entitled to receive, directly or indirectly, any benefits from, or as a result of your relationship with XYZ that in the aggregate could be valued in excess of \$1,000 that were not or will not be compensation directly related to your duties to XYZ? Yes No

If yes, please describe the benefit:



-
8. Are you or any of your affiliated persons a party to or have an interest in any pending legal proceedings involving XYZ? Yes No

If yes, please describe the proceeding(s):

9. Are you aware of any other events, transactions, arrangements, or other situations that you believe should be examined by XYZ's board or the executive committee in accordance with the terms and intent of XYZ's conflict-of-interest policy? Yes No

If yes, please describe the situation(s):

I HEREBY CONFIRM that I have read and understand XYZ's Conflict-of-Interest Policy and that my responses to the above questions are complete and correct to the best of my knowledge and belief.

Signature

Date

Sample #6

This policy acknowledges a duality of interest separate from a conflict of interest and includes a disclosure form.

CONFLICT-OF-INTEREST POLICY

The purpose of this conflict-of-interest policy is to prevent the institutional or personal interests of XYZ board members, officers, and staff from interfering with the performance of their duties to XYZ, and to ensure that there is no personal, professional, or political gain at the expense of XYZ. This policy is not designed to eliminate relationships and activities that may create a duality of interest, but to require



the disclosure of any conflicts of interest and the recusal of any interested party in a decision relating thereto.

A conflict of interest may exist when the interests or potential interests of any director, officer, or staff member, or that person's close relative, or any individual, group, or organization to which the person associated with XYZ has allegiance, may be seen as competing with the interests of XYZ, or may impair such person's independence or loyalty to XYZ. A conflict of interest is defined as an interest that might affect, or might reasonably appear to affect, the judgment or conduct of any director, officer, or staff member in a manner that is adverse to the interests of XYZ.

Examples

A conflict of interest may exist if a director, officer, staff member, or close relative

- has a business or financial interest in any third party dealing with XYZ. This does not include ownership interest of less than 5 percent of outstanding securities of public corporations.
- holds office, serves on a board, participates in management, or is employed by any third party dealing with XYZ, other than direct funders to XYZ
- derives remuneration or other financial gain from a transaction involving XYZ (other than salary reported on a W-2 or W-9 or salary and benefits expressly authorized by the board)
- receives gifts from any third party on the basis of his or her position with XYZ (other than occasional gifts valued at no more than \$[50], or if valued at more than \$[50], the gift is made available in a team space or common area for others to share — e.g., fruit baskets, boxes of candy). All other gifts should be returned to the donor with the explanation that XYZ policy does not permit the acceptance of gifts. No personal gift of money should ever be accepted.
- engages in any outside employment or other activity that will materially encroach on such person's obligations to XYZ; compete with XYZ's activities; involve any use of XYZ's equipment, supplies, or facilities; or imply XYZ's sponsorship or support of the outside employment or activity

Use of Information

Directors, officers, and staff shall not use information received from participation in XYZ affairs, whether expressly denominated as confidential or not, for personal gain or to the detriment of XYZ.

Disclosure and Recusal

Whenever any director has a conflict of interest or a perceived conflict of interest with XYZ, he or she shall notify the board chair of such conflict in writing.

Whenever any staff member (paid or volunteer) has a conflict of interest or a perceived conflict of interest with XYZ, he or she shall notify the chief executive of such conflict in writing.

When any conflict of interest is relevant to a matter that comes under consideration or requires action by the board, or a board committee, the interested person shall call it to the attention of the board chair and shall not be present during board or committee



discussion or decision on the matter. However, that person shall provide the board or applicable committee with any and all relevant information on the particular matter.

The minutes of the meeting of the board or its committee shall reflect that the conflict of interest was disclosed, that the interested person was not present during discussion or decision on the matter, and did not vote.

Dissemination

A copy of this conflict-of-interest policy shall be furnished to each director, officer, and staff member who is presently serving this organization or who may become associated with it.

Certification

The policy and its application shall be reviewed annually for the information and guidance of directors, officers, and staff members, each of whom has a continuing responsibility to scrutinize their transactions and outside business interests and relationships for potential conflicts of interest, and make such disclosures as described in this policy.

As administered by the chief executive, each director will be asked to complete a certification of agreement with the policy and disclosure of any known conflicts of interest upon his or her election or re-election to the board and annually thereafter. As administered by the employee in charge of human resources, each senior staff member will be asked to complete such a certification upon his or her employment and on an annual basis thereafter. All certifications shall be reviewed by the board as appropriate.

**CONFLICT CERTIFICATION FOR XYZ
Board and Senior Staff**

I have read and agree to abide by XYZ’s conflict-of-interest policy. To the best of my knowledge, I have no conflicts as described in this Policy.

Signature

Date

Name (please print)

— OR —

I have read and agree to abide by XYZ’s conflict-of-interest policy. To the best of my knowledge, I have no conflicts as described in this Policy, except those noted below or on the attached paper.



Signature _____

Date _____

Name (please print)

Sample #7

This conflict-of-interest policy begins with a set of “whereas” clauses to provide the context for its policy, then presents the actual policy as a resolution, and concludes with an appendix with organization-specific examples of what does and does not constitute a material conflict of interest.

XYZ ALLIANCE TO CREATE HOUSING CONFLICT-OF-INTEREST POLICY

By Resolution of XYZ board, adopted this ___ day of [month], [year].

Whereas, XYZ was incorporated under the laws of the state of [ABC] to provide decent affordable housing for the low- and moderate-income people of the [DEF] region, including families, the elderly, and disabled, among other charitable and educational purposes, and;

Whereas, XYZ will be seeking continuing recognition of its qualification as a nonprofit corporation under Sections 501(c)(3) of the Internal Revenue Code, to expand its fundraising capabilities and otherwise accomplish its purposes, and;

Whereas, XYZ must therefore ensure that its resources are not improperly diverted to the private benefit of its directors, related persons, or entities, and;

Whereas, XYZ is permitted, however, to pay reasonable compensation, and its directors, related persons, or entities may be the recipients of XYZ benefits where it is only incidental to fulfillment of XYZ’s charitable and educational purposes, and;

Whereas, XYZ will also be recruiting individuals to serve as XYZ directors 1) who are residents of XYZ’s projects and 2) because of their skills, contacts, and general life experiences relevant to accomplishing XYZ’s purposes, and;

Whereas, the nature of XYZ activities and the background of its directors are almost certain to result in occasions where its directors have outside interests that could be affected as the result of XYZ action, presenting a conflict to the director as a decision maker on behalf of XYZ, and;



Whereas, the board may act and XYZ may proceed with transactions despite such conflicts, even where it results in a contract for services to be provided by a director or related person, or to purchase property from a director, or selection of a director as recipient of XYZ's services, so long as the transaction is conducted at "arm's length," in good faith, under reasonable terms, upon reasonable inquiry not otherwise prohibited by law, and is by the board, and;

Whereas, directors owe a general duty of care to XYZ that includes the obligation of making reasonable inquiry to ensure they are sufficiently informed to act on behalf of XYZ, and;

Whereas, directors are entitled to rely on information, opinions, reports, or statements by fellow directors, but only where it is reasonable to believe the latter is reliable and competent concerning the matter presented, so conflicts of interest must be considered, and;

Whereas, the duty of loyalty that directors owe to XYZ requires in part that the best interests of XYZ take priority over the directors' personal interests or those of related persons or entities, with respect to XYZ's corporate activities, and;

Whereas, the failure of directors to honor their duties of care and loyalty to XYZ can diminish the ability of XYZ to accomplish its purposes, and could potentially expose directors and XYZ to the risks of legal action, and;

Whereas, directors must therefore understand the importance of recognizing when a conflict of interest exists and what their obligations are in this regard.

Thus it is resolved as follows:

- (1) Directors shall be given and acknowledge receipt of a copy of this document on appointment to the board, and again each year thereafter prior to the annual meeting.
- (2) A conflict of interest shall be recognized as present whenever a director has a material interest in a proposed contract or transaction to which XYZ may be a party.
- (3) A conflict of interest shall be recognized as material, whenever the nature of the director's interest is of such significance that it would reasonably be expected to exert an influence on the director's judgment if the director were called upon to vote on the transaction.
- (4) Material conflicts may exist as the result of direct financial interests, such as where a director owns land being considered by XYZ for purchase. Directors may also have material conflicts that are indirect, as the result of employment by or some other relationships to the transaction held by one or more members of the director's family or



household (See Appendix: *Specific Applications of XYZ Conflict-of-Interest Policy*, with examples provided).

- (5) When in doubt, the prudent course of action for the directors is to treat a case on which they have doubt as one in which their conflict is material.
- (6) It is the duty of the directors to disclose all material conflicts of interest that they have to the board, in writing
 - (a) prior to any action by the board, and;
 - (b) prior to consummation of any transaction to which XYZ is a party, whether or not the board takes action.
- (7) The director's disclosure shall at all times include
 - (a) the existence of the director's interest in the transaction, and;
 - (b) the nature of the director's interest in the transaction (whether arising from financial or familial relationships, professional or business affiliations, etc.)
- (8) The director's disclosure shall also include all facts known to the director respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction, unless the director has a duty under law or professional canon, or a duty of confidentiality to another person, with respect to such information about the transaction in question, such that they may not make the disclosure otherwise required by this subsection.
- (9) Subject to these restrictions, directors shall be counted for purposes of a quorum and may be permitted to participate in discussions at board meetings about a proposed transaction, but shall not vote, and shall leave the room if the vote is being taken in person, before decisions are made on matters concerning which they have a material conflict.
- (10) XYZ secretary shall record in the corporate minutes book the names of directors making disclosures, the content of all disclosures, whether directors making disclosures participated in discussion on the matter involving the conflict, and whether directors making disclosures voted on the matter concerning which the disclosure was made.

APPENDIX: SPECIFIC APPLICATIONS OF XYZ CONFLICT-OF-INTEREST POLICY

Examples of conflicts that are material because of the director's direct financial interests:



In these examples the director should not vote and should leave the room prior to the vote, because the director's interest is so significant that it would reasonably be expected to influence his or her judgment on that vote.

- The director is an engineer who has an ownership share of an architecture firm that has submitted a proposal for a project to be undertaken by the nonprofit.
- The director owns one of a number of parcels of land that the nonprofit has identified for acquisition.
- The board has to decide whether to substantially raise the rent at the nonprofit's housing units, or whether to cut costs by some means, and the director is a resident in one of those units.

Examples of conflicts that are material even though the director's interests, financial, or personal, are indirect:

Here too, the director's interest is significant enough that it would be reasonable to expect it to influence his or her judgment on that vote. As with the first examples, the director should disclose the conflict and withdraw from the vote.

- The director has been listed as the engineering subcontractor in a proposal by an architecture firm that has submitted a proposal for a project to be undertaken by the nonprofit.
- The director's sibling owns one of a number of parcels of land that the nonprofit has identified for acquisition.
- The director has applied for selection by the nonprofit to become a resident in one of its housing units, and the board is deciding on the criteria for selection, where the choice of criteria or weighing of criteria will make a difference in which applicants are selected.
- The director is also a member of a neighborhood civic or religious organization that is protesting the nonprofit's plan to involve local gang members in a mural painting project at the nonprofit's housing units.

Examples of conflicts that are arguably material because the director's interests or those of related persons or entities are relatively significant:

Although the director's interests are more attenuated than in the preceding examples, they are still significant enough to make a reasonable person pause to consider the implications for themselves or the related person involved. The prudent director should in these circumstances, disclose the conflict and abstain from voting.

- The Director is an engineer that has done a substantial amount of work in the past with an architecture firm that has submitted a proposal for a project to be undertaken by the nonprofit. No engineer has yet been identified in the firm's proposal, but the director is one of the few engineers the firm has previously contracted with for services on such



projects, and the director wants to be considered for future work with the firm even if no work is required or available on the project in question.

- The wife of the director's brother is employed by a firm that is bidding for selection by the nonprofit as a social service provider for the residents of the latter's housing projects. The director knows she is so employed and knows further that the firm is struggling and desperately needs the contract or it may have to make layoffs.
- The niece of the director's husband has applied for selection by the nonprofit to become a resident in one of its housing units, and the board is deciding on the criteria for selection, where the choice of criteria or weighing of criteria will make a difference in which applicants are selected.

Examples of conflicts that involve interest too attenuated to be material:

Neither of these last transactions could possibly be expected to significantly affect the company's income to the point it would be reflected in dividends or its ability to retain or compensate its employees. Although the director technically has a potential conflicting interest in each of these examples, that interest is so attenuated that no reasonable person's judgment could be expected to be influenced as a result. The director should be permitted to vote in such cases, but should still make a disclosure to the board concerning the conflict.

- The director owns a few shares in a large manufacturing company that has a small parcel of unutilized land that the nonprofit is considering for acquisition.
- The director's brother works for a large engineering firm listed by an architecture firm that submitted a proposal on a project the nonprofit is undertaking, but the brother works in a division of the company that will not be involved in the nonprofit's project under any circumstances. Moreover, the nonprofit's project is small, the portion going to the engineering firm would be minimal, the firm consistently has plenty of work, and the director's brother's job is secure.

Sample #8

This detailed policy recognizes the potential of structural conflicts, defines the situations with clarity, outlines the entire board process, and includes an annual disclosure form.

CONFLICT-OF-INTEREST POLICY AND PROCEDURES FOR THE BOARD



Policy Statement

Each member of the board of XYZ has a duty of loyalty to XYZ. In furtherance of this duty, it is the policy of XYZ that directors may not use their position as directors for personal, family, or professional gain. Directors may not obtain for themselves, their relatives, or their friends a financial or material interest of any kind from their connection with XYZ. Each director has a duty to give undivided allegiance to XYZ when making decisions affecting XYZ and in any transactions, dealings, or situations involving XYZ. In furtherance of these obligations, XYZ has adopted this Conflict-of-Interest Policy and Procedures applicable to its directors.

Categories of Conflicts of Interest

Conflict-of-Interest Transactions

A conflict of interest with respect to a transaction effected or proposed to be effected by the organization means the interest a director has respecting such transaction, if

- the director knows that he or she or a related person is a party to the transaction or has a beneficial financial or personal interest in or is so closely linked to the transaction and it is of such financial or personal significance to the director or a related person that the interest would reasonably be expected to exert an influence on the director's judgment if he or she were called upon to vote on the transaction; or
- the director knows that any of the following persons is either a party to the transaction or has a financial or personal interest in or is so closely linked to the transaction and it is of such financial or personal significance to the person that the interest would reasonably be expected to exert an influence on the director's judgment if he or she were called upon to vote on the transaction:
 - An entity of which the director is a director, officer, partner, equity owner, agent, or employee;
 - A person that controls, is controlled by, or is under common control with, one or more of the entities described in subsection (a); or
 - An individual who is a partner, principal, employer, employee, personal friend, business associate, or a significant creditor or debtor of the director.

For purposes of this policy, a "related person" of a director means 1) the spouse of the director, or a parent or sibling thereof, or a child, grandchild, sibling, or parent of the director, or the spouse of any thereof, or an individual having the same home as the director, or a trust or estate of which an individual specified in this paragraph is a substantial beneficiary, or 2) a trust, estate, incompetent, conservatee, or minor of which the director is a fiduciary.

Examples of situations in which conflicts of interest may arise include, but are not limited to, the following:

- Transactions with persons and organizations supplying goods and commercial services to XYZ



- Transactions with persons and organizations from which XYZ leases property and equipment
- Transactions with persons and organizations with whom XYZ is dealing or planning to deal in connection with the gift, purchase, or sale of real estate, securities, or other property
- Transactions with persons representing competing or collaborating organizations
- Transactions with donors and others supporting XYZ
- Transactions with persons representing agencies, organizations, and associations that affect the operations of XYZ
- Transactions with organizations or individuals receiving grants from XYZ

Conflict-of-Interest Relationships

XYZ recognizes that conflicts of interest may arise not only in the context of a transaction but also in situations where a director's personal interests, or the interests of a related person, personal friend, business associate, an entity in which a member holds an equity interest, employer, employee, or a significant creditor or debtor of the director, could reasonably be expected to exert an influence on the director's judgment regarding general XYZ matters and/or impair his or her ability to act in XYZ's best interests.

It is important to note that a "conflict of interest" exists if a decision could be influenced (i.e., perceived conflict of interest) — it is not necessary that influence actually take place.

Structural Conflicts of Interest

Because of an actual, potential, or perceived "structural" conflict of interest, directors may not sit concurrently on the boards of either The Society for ABC or the Association DEF.

Participation as a member of ABC, DEF, or other related organization is not a conflict of interest as it is acknowledged that board members will participate in the broader related arena.

Procedures for Identifying and Addressing Conflicts of Interest

The following procedures shall be followed when a conflict of interest arises with respect to any director:

- The director must promptly make full disclosure of the conflict of interest to the qualified directors of the board. The director must disclose (a) the existence and nature of the director's conflict of interest and (b) all facts known to him or her regarding the subject matter of the transaction or situation that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction or how to deal with the situation.
- For purposes of this policy, a "qualified director" means any director who does not have either (a) a conflict of interest with respect to the transaction or situation, or (b) a familial, financial, professional, or employment relationship with a second director who does have a



conflict of interest with respect to the transaction or situation, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction or situation.

- The qualified directors will discuss the conflict of interest and, depending on the nature of the conflict of interest, vote on either (a) whether or not to continue the transaction at issue or (b) measures to address the situation at issue. Directors subject to a conflict of interest shall not be permitted to be present or to participate in the deliberations or vote of the qualified directors with respect to such conflict of interest. Recusal of the director shall require such director to physically remove himself or herself from a meeting, conference call, e-mail, listserv, or any other electric communications.
- The conflict-of-interest transaction or situation shall be approved only upon the affirmative vote of a majority, but no fewer than ___, of those qualified directors on the board or on a duly empowered committee of the board (who voted on the transaction after required disclosure to them); provided, that action by a committee is effective only if (a) all committee members are qualified directors, and (b) committee members are either all the qualified directors on the board or are appointed by the affirmative vote of a majority of the qualified directors on the board. A majority, but no fewer than ___, of all the qualified directors on the board, or on the committee, constitutes a quorum for purposes of the vote described above.
- When a conflict exists, resolution of the matter may include (a) approving or disapproving any transaction or situation at issue; (b) requiring the director to remove himself or herself from positions in which the conflict of interest exists until there is no longer a conflict; or (c) requiring the director to discontinue, reduce, or modify his or her participation in the board, committees, or task forces where the conflict exists.
- In addition to the procedures described above, directors have an obligation to address any perceived conflict of interest of other directors if they are aware of such conflicts with respect to matters pertaining to XYZ.

Acknowledgment and Annual Disclosure

Directors will receive this conflict-of-interest policy and procedures and shall be required to sign and date the policy disclosure form at the beginning of their term of service. Directors also shall be required to sign and update the policy disclosure form at the beginning of each calendar year. Failure to update or sign the policy disclosure form, however, does not nullify a director's obligations under this policy.

ANNUAL STATEMENT CONCERNING POSSIBLE CONFLICT OF INTEREST

The undersigned acknowledges receipt of a copy of XYZ's Conflict-of-Interest Policy and Procedures for Directors.

By my signature affixed below, I acknowledge my agreement with the spirit and intent of these policies and, I agree to report to the chief executive of the organization any possible conflicts (other than those stated below) that may develop before completion of the next annual statement.



_____ I am not aware of any conflict of interest.

_____ I do or may have a conflict of interest in the following area(s):

Name: _____

Date: _____

Signature: _____

Sample #9

This sample policy is specifically for foundation boards, which need to have a clear policy and process in place for handling conflicts that arise when board members and staff are affiliated with potential grantees. It also has two elements that may be useful for all nonprofits – guidelines for recording conflict-of-interest proceedings and issues of compensation.

XYZ FOUNDATION CONFLICT-OF-INTEREST/DUALITY-OF-INTEREST POLICY

Article I: Purpose

XYZ Foundation (the “foundation”) strives to maintain the highest ethical standards in all policies, procedures, and programs and to avoid any conflicts of interest.

Article II: Definitions

1. Interested Person

Any trustee, officer, member of a committee with board-delegated powers, or employee who has a direct or indirect financial interest (as defined in Section 2) or duality of interest (as defined in Section 3), is an interested person.

2. Financial Interest

If a member of the governing body or any committee thereof has a financial interest conflicting with the interest of the foundation in any manner (such as whether to enter into a contract with such individual or with an organization with which such individual is associated), then the individual must bring the conflict to the attention of the other members and refrain from deliberating or voting in any decision with respect to the matter.

A person has a financial interest if the person has, directly or indirectly, through business, investment, or family



- a. An ownership or investment interest in any entity with which the foundation has a transaction or arrangement, or
- b. A compensation arrangement with the foundation or with any entity or individual with which the foundation has a transaction or arrangement, or
- c. A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the foundation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are substantial in nature.

A financial interest is not necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate board or committee decides that a conflict of interest exists.

3. Duality of Interest

A duality of interest exists when a trustee, officer, committee member, or employee of the foundation is affiliated with an organization seeking to request a grant from the foundation. Such affiliation exists if the person is a director, trustee, officer, or employee of the organization, or has an unofficial role such as significant donor, volunteer, advocate, or advisor.

Article III: Procedures

1. Duty to Disclose

In connection with any actual or possible conflict of interest or duality of interest, an interested person must disclose the existence of his or her financial interest or affiliation and all material facts to the trustees and members of committees with board-delegated powers considering the proposed transaction or arrangement. The disclosure should be made either when the interest becomes a matter of board or committee action or as part of a periodic procedure to be established by the board.

2. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he or she shall leave the board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. Procedures for Addressing the Interest

- a. An interested person may make a presentation at the board or committee meeting, but after such presentation, he or she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest or duality of interest.



- b. The chair of the board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c. After exercising due diligence, the board or committee shall determine whether the foundation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- d. If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the board or committee shall determine by a majority vote of the disinterested trustees whether the transaction or arrangement is in the foundation's best interest and for its own benefit and whether the transaction is fair and reasonable to the foundation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

4. Violations of the Policy

- a. If the board or committee has reasonable cause to believe that a member has failed to disclose actual or possible conflicts of interests or duality of interest, it shall inform the member of the basis of such belief and afford the member an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the response of the member and making such further investigation as may be warranted in the circumstances, the board or committee determines that the member has in fact failed to disclose an actual or possible conflict of interest or duality of interest, it shall take appropriate disciplinary and corrective action.

Article IV: Records of Proceedings

The minutes of the board and all committees with board-delegated powers shall contain

1. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest or duality of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest or duality of interest was present, and the board's or committee's decision as to whether a conflict of interest or duality of interest in fact existed
2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith

Article V: Compensation Committee

A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the foundation for services is precluded from voting on matters pertaining to that member's compensation.



Article VI: Annual Statements

Each trustee, officer, member of a committee with board-delegated powers, and employee shall annually sign a statement that affirms that such person

- a) has received a copy of the conflict-of-interest policy
- b) has read and understands the policy
- c) has agreed to comply with the policy, and
- d) understands that the foundation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

As Approved by the Board
[Date]

Sample #10

This sample policy comes from a community foundation and includes a disclosure form for trustees to record their involvement in other community businesses and nonprofits.

XYZ COMMUNITY FOUNDATION CONFLICT-OF-INTEREST POLICY FOR TRUSTEES AND OFFICERS

A conflict of interest is present whenever a trustee or officer of XYZ Community Foundation has a financial interest in a proposed transaction or is a director or officer of the other entity to the proposed transaction. Such transactions may include services provided by the foundation to fundholders, grants given to charitable organizations on which the trustee or officer also serves as an officer or director, purchase of services and/or tangibles from a vendor, and/or access to specialized or privileged information that can be used for personal gain.

The state of [ABC] nonprofit corporation law provides that transactions between (i) a nonprofit organization such as XYZ Community Foundation and (ii) any other corporation, partnership, association, or other organization in which one or more of the nonprofit organization's directors or officers are directors or officers, or have a financial interest, while not prohibited outright, are nonetheless subject to question. Such transactions may be void or voidable unless a good-faith disclosure of any such interest is made to the nonprofit organization prior to the nonprofit organization's entry into the transaction. It is also possible that directors and officers who fail to comply with the requirements of this law may incur liability to the extent the nonprofit organization is damaged.

Therefore, in accordance with this law, XYZ Community Foundation requires its trustees and officers to disclose all interests that they or a family member has in other



for-profit or nonprofit entities where it is foreseeable that the foundation may enter into a contract or award a grant or have other business or financial dealings with the entity. This shall include, but not be limited to, financial interests, officerships, directorships, and other similar substantial interests in any such entities.

Trustees and officers of XYZ Community Foundation are asked to maintain independence, objectivity *and confidentiality* and to do what a sense of fairness, ethics, and personal integrity dictate even though not necessarily obligated to do so by law, regulation, or custom. Trustees and officers serving on the executive committee shall refrain from voting on a proposed grant if they are in a conflict-of-interest situation and, if appropriate, shall withdraw from the meeting.

In order to avoid even the appearance of a conflict of interest that might embarrass the board or the foundation, trustees and officers must disclose any actual or possible conflicts, and the nature thereof, to the board chair and to the chief executive of the foundation annually, or as such situations may arise.

Adopted: [Date]

**XYZ COMMUNITY FOUNDATION
CONFLICT-OF-INTEREST ACKNOWLEDGMENT
FOR THE PERIOD _____**

I have read and understand XYZ Community Foundation’s policy on conflict of interest. As part of XYZ Community Foundation, I understand that this policy on conflict of interest applies to me.

I understand that I am expected to conduct business in accordance with the letter, spirit, and intent of all relevant conflict-of-interest laws and the conflict-of-interest policy and to refrain from any illegal, dishonest, or unethical conduct. I understand that if a situation arises where it is difficult to determine the proper course of action, the matter should be discussed openly with the board and/or with the chair or his or her designee for advice and consultation. Furthermore, I understand that this document can be amended at any time.

In compliance with the foundation’s conflict-of-interest policy, the positions that I or an immediate family member hold within the community are as follows:

Business and professional activities in which I or an immediate family member hold as an owner, officer, board member, partner, employee, or other beneficiary position as of _____:

Name of Business/Organization

Position Held/By Whom



Other not-for-profit organizations with which I or a family member is associated and which might reasonably expect to apply for a grant from XYZ:

Name of Organization

Position Held/By Whom

Other activities that may produce a possible conflict of interest:

In addition, I recognize the need to maintain confidentiality regarding information I might receive as a trustee or officer regarding donors, donations, and grantmaking activities of XYZ Community Foundation.

Signature

Printed Name

Date



Suggested Resources

- Paul, Sarah E. and Daniel L. Kurtz. *Managing Conflicts of Interest: The Board's Guide to Unbiased Decision Making*, Third Edition. Washington, DC: BoardSource, 2013.
- Brauer, Lawrence M. and Charles F. Kaiser, III. "Tax-Exempt Health Care Organizations Revised Conflicts of Interest Policy." www.irs.gov/pub/irs-utl/topice00.pdf.
- BoardSource. "Conflicts of Interest at Foundations: Avoiding the Bad and Managing the Good." Washington, DC: BoardSource, 2005. BoardSource Learning Center Member Resource. www.boardsource.org



Sample Confidentiality Policies

Introduction

Nonprofit leaders may find themselves challenged to discover the right balance between transparency and confidentiality. Nonprofit organizations are required by law to disclose certain information, such as their particular IRS Form 990. In addition, many states have sunshine laws — open meeting laws — that require certain nonprofits to make at least some portions of their board meetings open to the public.

Beyond that, it becomes more complicated. On the one hand, it is often in an organization's best interest to share information with donors, stakeholders, and the general public in order to demonstrate its positive impact on the community. On the other hand, nonprofit organizations operate in a demanding and competitive environment. Like any business, they need to plan, manage, and oversee their operations internally on a regular basis. Part of the board's duty of loyalty is to maintain the confidentiality of core organizational information.

Nonprofit organizations often deal with sensitive information about clients, donors, employees, and volunteers. Confidentiality policies are important to an organization's credibility and reputation, and both board and staff should understand their responsibilities in this area.

Key Elements

- Boards are often exposed to confidential information critical to the well-being of the organization. Information that generally is considered confidential and/or privileged includes: planning documents (includes budget); business and legal negotiations; client, customer, and patient records; personnel files; anonymous donor records; security guidelines; and any other matters discussed in executive sessions.
- For some nonprofits, because of their service area (e.g., domestic violence) and/or organizational complexity (e.g., hospitals), it is more efficient to proactively categorize certain documents and information as confidential. For other organizations, the board may, in briefing packets and during meetings, identify specific items that are confidential, thereby reminding board members of their commitment to confidentiality. Taken further, the board may vote on whether certain sensitive issues and/or discussions are confidential in nature.

Practical Tips

- ✓ Acknowledge the contradiction between confidentiality and transparency broadly. At the same time, educate board and staff about nonprofit public disclosure requirements. Explain that



confidentiality, when properly adhered to, does not contradict the organization's need to remain publicly accountable for its actions.

- ✓ Make the confidentiality policy part of the board member and new staff orientation.
- ✓ Discuss the reasons for confidentiality. By understanding the purpose, it is easier to abide by the policy.
- ✓ Connect the confidentiality policy to board members' duty of loyalty, which obligates them to act in the best interest of the organization.
- ✓ Ensure that client privilege for confidentiality is respected. Do not share any information that relates to your clients — even identification of who they are, under certain circumstances. Confidentiality should be automatic in the case of lawyer-client or accountant-client relationships.
- ✓ In the confidentiality policy, recognize legal requirements for confidential records (e.g., HIPAA, personnel files, national security).

Sample Confidentiality Policies

The six confidentiality policies range from overarching guidelines to detailed documents, and they take into account some concerns specific to certain kinds of nonprofits.

Sample #1

This very brief policy is a basic statement of values relating to confidentiality.

Confidentiality is a hallmark of professionalism. XYZ employees and trustees

- ensure that all information that is confidential or privileged or that is not publicly available is not disclosed inappropriately
- ensure that all nonpublic information about other persons or firms acquired by XYZ personnel in dealing with outside firms on behalf of XYZ is treated as confidential and not disclosed

Sample #2

This general policy provides board and staff members with broad guidelines for handling confidential information.



It is the policy of XYZ that board members and employees of XYZ may not disclose, divulge, or make accessible confidential information belonging to, or obtained through their affiliation with XYZ to any person, including relatives, friends, and business and professional associates, other than to persons who have a legitimate need for such information and to whom XYZ has authorized disclosure. Board members and employees shall use confidential information solely for the purpose of performing services as a board member or employee for XYZ. This policy is not intended to prevent disclosure where disclosure is required by law.

Board members and employees must exercise good judgment and care at all times to avoid unauthorized or improper disclosures of confidential information. Conversations in public places, such as restaurants, elevators, and airplanes, should be limited to matters that do not pertain to information of a sensitive or confidential nature. In addition, board members and employees should be sensitive to the risk of inadvertent disclosure and should, for example, refrain from leaving confidential information on desks or otherwise in plain view and refrain from the use of speakerphones to discuss confidential information if the conversation could be heard by unauthorized persons.

At the end of a board member's term in office or upon the termination of an employee's employment, he or she shall return, at the request of XYZ, all documents, papers, and other materials, regardless of medium, that may contain or be derived from confidential information in his or her possession.

Sample #3

This policy identifies particular information that is confidential, and includes a disciplinary policy for staff. While parts of it are specific to membership organizations, the scope and intent of it is relevant for all organizations.

CONFIDENTIALITY POLICY

Confidentiality is a basic element of the operation of XYZ. To protect the confidentiality of fellow employees and the organization, no information concerning other employees or XYZ business is to be discussed with anyone except when necessary for the purpose of daily business.

Member information shall be kept strictly confidential. Only those authorized personnel directly responsible for services to the member shall discuss or have access to this information. Care shall be exercised to be certain that unauthorized individuals do not overhear discussion of confidential information.

Employees and directors of XYZ understand and agree that during their employment and/or service they may obtain information and documents which is confidential and/or



privileged and proprietary in nature and which must be kept confidential both during and after their term of employment or service. As such, all employees and directors are required to return any such documents containing privileged or confidential information at the time of the termination of employment or expiration of service.

Any such employee or director that divulges confidential or privileged information, whether during or after his term of employment or service, is subject to appropriate discipline, including dismissal, or other criminal sanctions. Employees and directors recognize that the employer has a proprietary interest in any such information and/or documents and would be irreparably damaged as a result of any disclosure or dissemination thereof.

Breaches of confidential information are subject to disciplinary action up to and including immediate termination and/or removal.

Sample #4

This policy provides more specificity about what information must be kept confidential. While parts of it are specific to foundations and their grantees, the scope and intent of it is relevant for all organizations.

CONFIDENTIALITY POLICY

Any information about XYZ Foundation and its applicants, grantees, donors, prospective donors, and any personal information about employees or other confidential information obtained by board, staff, and consultants as a result of working with the foundation should be considered confidential and should be discussed only as appropriately required in connection with the foundation's work. All information concerning an applicant, grantee, donor, prospective donor, or other confidential information must be maintained in confidence, and particular care must be taken to avoid discussion of foundation affairs with third parties, unless authorization to do so is obtained from the chief executive, or as required by law.

All files, documents, and working papers of the foundation are the property of the foundation. Any board member, staff member, or consultant who purposely, or through a failure to exercise reasonable care, causes confidential information to be disclosed will be subject to disciplinary action, up to and including termination. The obligation to keep information confidential continues after an employee, board member, or consultant ceases to be employed by or affiliated with the foundation.

Personal Addresses

It is the policy of the foundation not to give out staff or committee member's personal addresses or phone numbers to outside persons (with the exception of the human



resource department's dealings with benefit providers). Anyone asking for personal information on staff or committee members should be instructed to forward all calls, mailings, or invitations to the foundation office.

Sample #5

This specific policy outlines what information (e.g., names and addresses) and documents may not be disclosed. A few items are specific to community foundations, but the level of detail could be easily adapted for other nonprofits.

CONFIDENTIALITY POLICY FOR BOARD MEMBERS, COMMITTEE MEMBERS, AND STAFF

The following policies apply to members of the XYZ board, its staff, volunteers, and to members of committees authorized by the board. References in the policies to board members are intended also to apply to committee members.

Board and Committee Meetings: On any vote of the board, both the numbers of affirmative and negative votes and the individual votes of board members, unless specifically requested by a member otherwise, shall be confidential but the record of individual votes must be kept on file.

Board, committee, and staff members shall not disclose to anyone outside of XYZ the statements, positions, or votes by any board or committee member on actions taken by the board or its committees. Only in extraordinary situations will a board or committee member disclose his or her position or vote on a board or committee action, and only after advising the board's chair before making such a disclosure.

The general "sense of the board" on a particular matter may be conveyed to an applicant, grantee, vendor, or donor when the sharing of such information is helpful in conveying the board's concerns. However, such information should only be shared with the concerned party. In addition, such information may be shared with a donor or with another grantmaker when the information has been requested and is deemed important in helping the donor or grantmaker arrive at an informed decision on a grant proposal or opportunity.

Executive Sessions: The minutes of the board meeting shall indicate when the board goes into executive session but shall not normally reflect any of the topics or discussion that occurs in executive session. However, when the board takes an action in executive session that needs to be recorded, the board chair will provide any such text that is to be included in the official minutes of the meeting.

Board and Program Committee Docket: The docket prepared for the board and staff is confidential and should be treated as an internal document restricted to XYZ use. No portion of the docket may be shared, in written or oral form, with any individual or



with any organization outside of XYZ. Exceptions may be made only with the consent of the chief executive.

Personal Information on Staff and Board Members: The home addresses, telephone numbers, fax numbers, and e-mail addresses of board, committee, and staff members are not to be given out to any individual or organization without the express permission of the person to be disclosed.

Information on a Donor's Fund: All information concerning a donor's fund, other than information published in the annual report, newsletter, or XYZ publication, shall remain confidential unless approved by the donor. This includes information on the size and types of grants, the size of the fund, and other such information.

Information on Donors and Prospects: All information obtained about donors and prospective donors will remain confidential and not discussed with any individual other than a board or staff member, unless otherwise authorized by the donor or prospective donor.

The home addresses, telephone numbers, fax numbers, or e-mail addresses of donors and prospective donors are not to be given out to any individual or organization without the express permission of the person to be disclosed.

When a donor requests that his or her gift or fund be treated as an anonymous gift or fund, the donor's wishes are to be honored by both board and staff members.

All staff members shall adhere to the principle that all donor and prospect information created by, or on behalf of, XYZ is the property of XYZ and shall not be transferred or utilized except on behalf of XYZ.

In signing this statement, I confirm that I have received a copy of the Confidentiality Policy and agree to abide by the guidelines set forth therein.

Please print name: Board Member, Committee Member, Staff Member

Signature: Board Member, Committee Member, Staff Member

Date

Sample #6

This confidentiality policy explicitly states what information employees are prohibited from disclosing during and after their employment, and it requires a signature.

CONFIDENTIAL INFORMATION



The employees of XYZ manage and have access to confidential information that must stay within our organization. Confidential information includes, but is not limited to, our donors, supporters, employees, marketing processes, as well as our financial information, which includes current and future business plans, our computer and software systems and processes, personnel information, and associated documents. Employees are not permitted to share this confidential information with anyone outside the organization, or to remove or make copies of any of XYZ's records, reports, or documents in any form, without prior management approval. Disclosure of confidential information may lead to disciplinary action, which may include termination of employment, as well as other possible legal action. Additionally, employees of XYZ are prohibited during and/or after employment from using XYZ's confidential information in any form for their own purposes or for those of other persons or entities. Finally, all confidential information relative to XYZ, regardless of its form, must be returned to the organization at the time of termination of employment with the organization.

Statement of Understanding and Agreement

I am aware that, during the course of my employment, confidential information will be made available to me. Further, I understand that this information is proprietary and critical to the success of XYZ and may not be distributed or used outside of XYZ premises or with non-XYZ individuals. In the event of my termination of employment, whether voluntary or involuntary, I hereby agree that I will not utilize or exploit this information for my own personal gain, or share it with any other individual, nonprofit agency, or company.

Signature

Date

Print Name



Suggested Resources

- Paul, Sarah E. and Daniel L. Kurtz. *Managing Conflicts of Interest: The Board's Guide to Unbiased Decision Making*, Third Edition. Washington, DC: BoardSource, 2013.
- Nathan, Charles M. "Maintaining Board Confidentiality." Blog posted on January 23, 2010 at the Harvard Law School Forum on Corporate Governance and Financial Regulation <http://blogs.law.harvard.edu/corpgov/2010/01/23/maintaining-board-confidentiality/>
- "Executive Sessions: How to Use Them Regularly and Wisely." BoardSource Learning Center Member Resource. www.boardsource.org



Sample Whistleblower Protection Policies

Introduction

The Sarbanes-Oxley Act of 2002 makes it a federal crime for any organization — nonprofit and for-profit — to retaliate against a “whistleblower” who reports illegal or unacceptable (alleged or real) activity. It also requires publicly-traded companies to establish a confidential process for reporting misuse of the organization’s financial assets.

In practice, it is difficult to separate the prohibition against retaliation from the reporting process. So, most whistleblower policies address both. They are also being used to address other improprieties, such as discrimination and sexual harassment. Individuals who witness any kind of unsuitable behavior must feel free to speak out. Nonprofit leaders — board and senior management together — should take complaints seriously, undertake an investigation, and rectify the situation.

Key Elements

- The whistleblower policy should state, unequivocally, that fraudulent actions are not tolerated. It may also apply to other improprieties.
- A confidential reporting mechanism sends a message to the entire staff that fraud is not tolerated and that whistleblowers are protected. That mechanism might be automated, such as online services or phone lines. Or, it may include a hierarchy of levels within the organization, from the human resource manager and the chief executive to the audit committee and the board chair.
- To help supervisors handle sticky situations, clarify the hierarchy for solving internal conflicts. Staff members should contact the board directly with alleged ethical, illegal, or fraudulent actions by the chief executive or when it is impossible to get management’s attention in a serious situation.
- Having clear policies that are consistently enforced will help prevent employee complaints. Such policies help supervisors ensure equitable and fair treatment of employees.

Practical Tips

- ✓ To ensure clarity, provide definitions in the whistleblower policy that range anywhere from identifying what allegations are governed by the policy to what constitutes retaliation.
- ✓ The policy should also outline a clear and consistent practice for reporting alleged violations. This process should be explicit about how and to whom complaints are submitted.



- ✓ A whistleblower policy functions as an extension of a code of ethics and a parallel process to complaint procedures. In developing the policy and the process, consider its relationship to these other policies.

Sample Whistleblower Protection Policies

The four samples provide different approaches to reporting procedures, whistleblower protection, and defining fraudulent activity versus misbehavior.

Sample #1

This policy is written in simple language and focuses on the intent behind whistleblower protection.

SAMPLE WHISTLEBLOWER POLICY

General

XYZ Code of Ethics and Conduct (“Code”) requires directors, officers, and employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of the organization, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Reporting Responsibility

It is the responsibility of all directors, officers, and employees to comply with the Code and to report violations or suspected violations in accordance with this Whistleblower Policy.

No Retaliation

No director, officer, or employee who in good faith reports a violation of the Code shall suffer harassment, retaliation, or adverse employment consequence. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within the organization prior to seeking resolution outside the organization.

Reporting Violations

The Code addresses the organization’s open-door policy and suggests that employees share their questions, concerns, suggestions, or complaints with someone who can address them properly. In most cases, an employee’s supervisor is in the best position to address an area of concern. However, if you are not comfortable speaking with your supervisor or you are not satisfied with your supervisor’s response, you are encouraged



to speak with someone in the human resources department or anyone in management who you are comfortable approaching. Supervisors and managers are required to report suspected violations of the Code of Conduct to the organization's compliance officer, who has specific and exclusive responsibility to investigate all reported violations. For suspected fraud, or when you are not satisfied or uncomfortable with following the organization's open-door policy, individuals should contact the organization's compliance officer directly.

Compliance Officer

The organization's compliance officer is responsible for investigating and resolving all reported complaints and allegations concerning violations of the Code and, at his or her discretion, shall advise the chief executive and/or the audit committee. The compliance officer has direct access to the audit committee of the board and is required to report to the audit committee at least annually on compliance activity. The organization's compliance officer is the chair of the audit committee.

Accounting and Auditing Matters

The audit committee of the board shall address all reported concerns or complaints regarding corporate accounting practices, internal controls, or auditing. The compliance officer shall immediately notify the audit committee of any such complaint and work with the committee until the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation of the Code must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation of the Code. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be submitted on a confidential basis by the complainant or may be submitted anonymously. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

Handling of Reported Violations

The compliance officer will notify the sender and acknowledge receipt of the reported violation or suspected violation within ___ business days. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

Audit Committee Compliance Officer



[Organization] Management Staff

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Sample #2

This policy provides clear definitions and provisions for handling allegations of misconduct while protecting the organization under difficult circumstances.

In keeping with the policy of maintaining the highest standards of conduct and ethics, XYZ will investigate any suspected fraudulent or dishonest use or misuse of XYZ's resources or property by staff, board members, consultants, or volunteers.

Staff, board members, consultants, and volunteers are encouraged to report suspected fraudulent or dishonest conduct (i.e., to act as "whistleblower"), pursuant to the procedures set forth below.

Reporting

A person's concerns about possible fraudulent or dishonest use or misuse of resources or property should be reported to his or her supervisor or, if suspected by a volunteer, to the staff member supporting the volunteer's work. If, for any reason, a person finds it difficult to report his or her concerns to a supervisor or staff member supporting the volunteer's work, the person may report the concerns directly to the chief executive. Alternately, to facilitate reporting of suspected violations where the reporter wishes to remain anonymous, a written statement may be submitted to one of the individuals listed above.

Definitions

Baseless Allegations

Allegations made with reckless disregard for their truth or falsity. Individuals making such allegations may be subject to disciplinary action by XYZ, and/or legal claims by individuals accused of such conduct.

Fraudulent or Dishonest Conduct

A deliberate act or failure to act with the intention of obtaining an unauthorized benefit. Examples of such conduct include

- forgery or alteration of documents
- unauthorized alteration or manipulation of computer files



- fraudulent financial reporting
- pursuit of a benefit or advantage in violation of XYZ's Conflict-of-Interest Policy
- misappropriation or misuse of XYZ resources, such as funds, supplies, or other assets
- authorizing or receiving compensation for goods not received or services not performed
- authorizing or receiving compensation for hours not worked

Whistleblower

An employee, consultant, or volunteer who informs a supervisor or the chief executive about an activity relating to XYZ which that person believes to be fraudulent or dishonest.

Rights and Responsibilities

Supervisors

Supervisors are required to report suspected fraudulent or dishonest conduct to the chief executive. Reasonable care should be taken in dealing with suspected misconduct to avoid

- Baseless allegations
- Premature notice to persons suspected of misconduct and/or disclosure of suspected misconduct to others not involved with the investigation
- Violations of a person's rights under law

Due to the important yet sensitive nature of the suspected violations, effective professional follow-up is critical. Supervisors, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstances perform any investigative or other follow-up steps on their own. Accordingly, a supervisor who becomes aware of suspected misconduct

- should not contact the person suspected to further investigate the matter or demand restitution
- should not discuss the case with attorneys, the media, or anyone other than the chief executive
- should not report the case to an authorized law enforcement officer without first discussing the case with the chief executive

Investigation

All relevant matters, including suspected but unproved matters, will be reviewed and analyzed, with documentation of the receipt, retention, investigation, and treatment of the complaint. Appropriate corrective action will be taken, if necessary, and findings will be communicated to the reporting person and his or her supervisor. Investigations may warrant investigation by independent persons such as auditors and/or attorneys.

Whistleblower Protection

XYZ will protect whistleblowers as defined below:



- XYZ will use its best efforts to protect whistleblowers against retaliation. Whistleblowing complaints will be handled with sensitivity, discretion, and confidentiality to the extent allowed by the circumstances and the law. Generally, this means that whistleblower complaints will only be shared with those who have a need to know so that XYZ can conduct an effective investigation, determine what action to take based on the results of any such investigation, and in appropriate cases, with law enforcement personnel. (Should disciplinary or legal action be taken against a person or persons as a result of a whistleblower complaint, such persons may also have the right to know the identity of the whistleblower.)
- Employees, consultants, and volunteers of XYZ may not retaliate against a whistleblower for informing management about an activity which that person believes to be fraudulent or dishonest with the intent or effect of adversely affecting the terms or conditions of the whistleblower's employment, including but not limited to, threats of physical harm, loss of job, punitive work assignments, or impact on salary or fees. Whistleblowers who believe that they have been retaliated against may file a written complaint with the chief executive. Any complaint of retaliation will be promptly investigated and appropriate corrective measures taken if allegations of retaliation are substantiated. This protection from retaliation is not intended to prohibit supervisors from taking action, including disciplinary action, in the usual scope of their duties and based on valid performance-related factors.
- Whistleblowers must be cautious to avoid baseless allegations (as described earlier in the definitions section of this policy).

Sample #3

This sample expands the list of improprieties that are subject to the whistleblower policy to include fraudulent actions and actions that violate other codes of conduct.

Introduction

The Statement of Values and Code of Ethics adopted by XYZ requires all staff, board members, and volunteers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of XYZ, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations. Set forth below is XYZ's policy with respect to reporting good-faith concerns about the legality or propriety of XYZ actions or plans.

Reporting of Concerns or Complaints

It is the responsibility of all staff, board members, and volunteers to comply with XYZ's Code of Ethics and applicable law and to report violations or suspected violations in accordance with this Whistleblower Policy.

Confidentiality

XYZ will treat all communications under this policy in a confidential manner, except to the extent necessary 1) to conduct a complete and fair investigation, or 2) for review of XYZ operations by XYZ's board, its audit committee, XYZ's independent public accountants, and XYZ's legal counsel.



Retaliation

XYZ will not permit any negative or adverse actions to be taken against any employee or individual for making a good-faith report of a possible violation of its Code of Ethics or applicable law, even if the report is mistaken, or against any employee or individual who assists in the investigation of a reported violation. Retaliation in any form will not be tolerated. Any act of alleged retaliation should be reported immediately and will be promptly investigated. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment. This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within XYZ prior to seeking resolution outside the organization.

How To Report Concerns or Complaints

Employees and others may communicate suspected violations of its Code of Ethics, applicable law, or other wrongdoing or alleged retaliation by contacting XYZ's [title, name, phone, e-mail]. If you wish to remain anonymous, it is not necessary that you give your name or position in any notification.

Whether or not you identify yourself, for a proper investigation to be conducted, please provide XYZ with as much information as you can, sufficient to do a proper investigation, including where and when the incident occurred, names and titles of the individuals involved, and as much other detail as you can provide.

Illustrative Types of Concerns

The following is a partial list of the kinds of improprieties that should be reported:

- Supplying false or misleading information on XYZ's financial or other public documents, including its Form 990
- Providing false information to or withholding material information from XYZ's board or auditors
- Destroying, altering, mutilating, concealing, covering up, falsifying, or making a false entry in any records that may be connected to an official proceeding, in violation of federal or state law or regulations
- Altering, destroying, or concealing a document, or attempting to do so, with the intent to impair the document's availability for use in an official proceeding or otherwise obstructing, influencing, or impeding any official proceeding, in violation of federal or state law or regulations
- Embezzling, self-dealing, private inurement (i.e., XYZ earnings inuring to the benefit of a director, officer, or senior management) and private benefit (i.e., XYZ assets being used by anyone in the organization for personal gain or benefit)
- Paying for services or goods that are not rendered or delivered
- Using remarks or actions of a sexual nature that are not welcome and are likely to be viewed as personally offensive, including sexual flirtations; unwelcome physical or verbal advances; sexual propositions; verbal abuse of a sexual nature; the display of



sexually suggestive objects, cartoons, or pictures; and physical contact of a sexual or particularly personal nature.

- Using epithets, slurs, negative stereotyping, and threatening, intimidating, or hostile acts that relate to race, color, religion, gender, national origin, age, or disability
- Circulating or posting written or graphic material in the workplace that denigrates or shows hostility or aversion toward an individual or group because of race, color, religion, gender, nationality, age, or disability
- Discriminating against an employee or potential employee due to a person's race, color, religion, sex, sexual orientation, national origin, age, physical or mental impairment, or veteran status
- Violating XYZ's Statement of Values and Code of Ethics, Conflict-of-Interest Policy, Harassment Policy, or Equal Employment Opportunity Policy
- Facilitating or concealing any of the above or similar actions

Questions

If you have any questions regarding this policy, please contact

_____.

Sample #4

This policy provides a description of reporting procedures in further detail.

XYZ WHISTLEBLOWER POLICY

The whistleblower policy is intended to provide a mechanism for the reporting of illegal activity or the misuse of XYZ assets while protecting the employees who make such reports from retaliation.

Questionable Conduct

This policy is designed to address situations in which an employee suspects another employee has engaged in illegal acts or questionable conduct involving XYZ's assets. This conduct might include outright theft (of equipment or cash), fraudulent expense reports, misstatements of any accounts to any manager or to XYZ's auditors, or even an employee's conflict of interest that results in financial harm to XYZ. XYZ encourages staff to report such questionable conduct and has established a system that allows them to do so anonymously.

Making a Report

If an employee suspects illegal conduct or conduct involving misuse of XYZ assets or in violation of the law, he or she may report it, anonymously if the employee wishes, and will be protected against any form of harassment, intimidation, discrimination, or retaliation for making such a report in good faith.



Employees can make a report to any of the following XYZ executives at any time: chief executive, chief financial officer, or the head of human resources. XYZ will promptly conduct an investigation into matters reported, keeping the informant's identity as confidential as possible consistent with our obligation to conduct a full and fair investigation.

Alternatively, employees can make a report by calling either the board chair or the chair of the audit committee. Their names and phone numbers are posted on XYZ's intranet.

No Retaliation

An employee who has made a report of suspicious conduct and who subsequently believes he or she has been subjected to retaliation of any kind by any XYZ employee is directed to immediately report it to the chief executive, the chief financial officer, or the head of human resources as appropriate.

Reports of retaliation will be investigated promptly in a manner intended to protect confidentiality as much as practicable, consistent with a full and fair investigation. The party conducting the investigation will notify the employee of the results of the investigation.

XYZ strongly disapproves of and will not tolerate any form of retaliation against employees who report concerns in good faith regarding XYZ's operations. Any employee who engages in such retaliation will be subject to discipline up to and including termination.

XYZ Reporting Procedures

The "whistleblower" procedure is intended to describe the process through which concerns about the possible misuse of XYZ assets are handled pursuant to XYZ's whistleblower policy.

- An employee makes a report of suspected misuse of XYZ assets by reporting in person to an XYZ executive, or reporting anonymously to the board chair or the audit committee chair.
- The report is promptly reviewed by the chief executive, as well as the chief financial officer, to determine whether the report constitutes a complaint or a non-complaint, unless one of them is allegedly involved in the misconduct, in which case the report should be reviewed by only one of them. (If both of them are alleged to be involved, the report should go directly to the board chair or the audit committee chair.)
- A *complaint* means any report involving (i) questionable accounting, auditing, financial reporting, or internal controls; (ii) suspected fraud, theft, or improper use of company assets; (iii) a violation of XYZ's conflict-of-interest policy that results in a financial harm to XYZ; or (iv) a claim of retaliation against any employee making a good-faith report regarding any of the preceding matters.
- A *non-complaint* means a report of any other matter not involving a misuse of XYZ's assets.



- If the report is deemed to be a complaint, it will be promptly investigated and forwarded to the audit committee chair. If the report is deemed to be a non-complaint, it will be referred to the appropriate executive or manager for follow-up. Some non-complaints may involve serious matters and may require prompt investigation, but may nevertheless not involve misuse of XYZ's assets.

Each complaint is fully investigated, and as far as possible handled so as to protect the privacy of the employee making the complaint. A written report of the outcome of each investigation is prepared and delivered to the audit committee chair.

The audit committee chair decides whether the report involves a matter that is material. If it is deemed material, it is reviewed by the full committee, which may forward it for disposition to the board or may direct senior management to take actions to resolve the situation. If the report is deemed nonmaterial, it is not reviewed by the committee but is instead addressed by the chief financial officer, as appropriate.

Suggested Resources

- BoardSource and Independent Sector. "The Sarbanes-Oxley Act and Its Implications for Nonprofit Organizations." Washington, DC: BoardSource and Independent Sector
http://www.independentsector.org/uploads/Accountability_Documents/sarbanes_oxley_implications.pdf
- Zuckerman, Jason. "Whistleblower Protections in the Nonprofit Sector." Nonprofit Risk Management Center
<http://www.nonprofitrisk.org/library/articles/employment091005.shtml>
- Eaton, Tim V. and Michael D. Akers. "Whistleblowing and Good Governance." The CPA Journal 2007.
<http://www.nysscpa.org/cpajournal/2007/607/essentials/p58.htm>

Sample Record Retention and Document Destruction Policies

Introduction

Record retention and document destruction are distinct but complementary issues. Record retention balances the need for an organization to maintain accurate and



appropriate files with the challenge of limited physical and electronic space for archives. All businesses need to keep documents that preserve institutional history for strategic planning, regulatory compliance, and legal purposes.

The Sarbanes-Oxley Act of 2002 forbids purging of documents when any organization — nonprofit or for-profit — is under federal investigation. Document destruction policies provide guidelines for the proper disposal of records and prevent destruction of relevant documentation if the organization is involved in litigation.

It is a federal crime to alter, cover up, falsify, or destroy any document to prevent its use in an official proceeding. Retention and destruction policies are helpful under *any* circumstances. When already in place, these policies not only help nonprofits retain appropriate historical and legal documentation, but they also clarify the steps to take if federal investigation ever takes place.

Key Elements

- The document retention policy should cover employee records, accounting and tax records (e.g., bank statements, audits, IRS forms), legal documents (e.g., articles of incorporation, tax-exempt application, the determination letter, contracts, intellectual property documents, real estate records), board-related records (minutes, policies, resolutions), and e-mails and voicemails.
- In some cases, the applicable retention period is dictated by statute. In other cases, it is a matter of judgment. (Accordingly, in a few cases, the recommended retention periods for the sample policies may differ slightly.)
- When under federal investigation or where litigation is either ongoing or imminent — or even if that becomes a possibility — state clearly that all document destruction must stop and documents must be preserved.

Practical Tips

- ✓ State that the purpose of the policy is to help establish organizational procedures for the retention, maintenance, and destruction of records, consistent with applicable legal requirements.
- ✓ Indicate the legal and/or desired retention periods for all records (and double check with legal counsel regarding retention periods for your unique organization).
- ✓ Retention of various business documents is mandated by law. Become familiar with these requirements, as the retention period varies depending on the document.



- ✓ Equal care should be given to electronic documents and voicemail. Network and individual computer backup systems need systematic attention and should be part of regular risk-management.
- ✓ Maintain a good filing system: Categorize various records appropriately so they are easy to find. Purging old, outdated documents is also a good practice.

Sample Record Retention and Document Destruction Policies

The four samples address both record retention and document destruction guidelines, with two policies focusing on retention specifically, one on destruction, and one on both issues.

Sample #1

This brief document retention policy is framed as part of compliance with Sarbanes-Oxley; it includes a list of documents and time periods.

RECORD RETENTION POLICY

XYZ takes seriously its obligations to preserve information relating to litigation, audits, and investigations. The Sarbanes-Oxley Act makes it a crime to alter, cover up, falsify, or destroy any document to prevent its use in an official proceeding. Failure on the part of employees to follow this policy can result in possible civil and criminal sanctions against XYZ and its employees and possible disciplinary action against responsible individuals (up to and including termination of employment). Each employee has an obligation to contact the chief executive or chief financial officer of a potential or actual litigation, external audit, investigation, or similar proceeding involving XYZ. The information listed in the retention schedule below is intended as a guideline and may not contain all the records XYZ may be required to keep in the future. Questions regarding the retention of documents not listed in this chart should be directed to the chief executive.

From time to time, the chief executive may issue a notice, known as a “legal hold,” suspending the destruction of records due to pending, threatened, or otherwise reasonably foreseeable litigation, audits, government investigations, or similar proceedings. No records specified in any legal hold may be destroyed, even if the scheduled destruction date has passed, until the legal hold is withdrawn in writing by the chief executive.

File Category	Item	Retention Period
Corporate Records	Bylaws and Articles of Incorporation	Permanent



File Category	Item	Retention Period
	Corporate resolutions	Permanent
	Board and committee meeting agendas and minutes	Permanent
	Conflict-of-interest disclosure forms	4 years
Finance and Administration	Financial statements (audited)	Permanent
	Auditor management letters	Permanent
	Payroll records	Permanent
	Journal entries	Permanent
	Check register and checks	[7 years/ Permanent]
	Bank deposits and statements	7 years
	Charitable organizations registration statements (filed with [State] Attorney General)	7 years
	Chart of accounts	7 years
	Expense reports	7 years
	General ledgers and journals (includes bank reconciliations, fund accounting by month, payouts allocation, securities lending, single fund allocation, trust statements)	7 years
	Accounts payable ledger	7 years
	Investment performance reports	7 years
	Investment consultant reports	7 years
	Investment manager correspondence	7 years
	Equipment files and maintenance records	7 years after disposition
Contracts and	7 years after	



File Category	Item	Retention Period
	agreements	all obligations end
	Investment manager contracts	7 years after all obligations end
	Correspondence — general	3 years
Insurance Records	Policies — occurrence type	Permanent
	Policies — claims-made type	Permanent
	Accident reports	7 years
	Fire inspection reports	7 years
	Safety (OSHA) reports	7 years
	Claims (after settlement)	7 years
	Group disability records	7 years after end of benefits
Real Estate	Deeds	Permanent
	Leases (expired)	7 years after all obligations end
	Mortgages, security agreements	7 years after all obligations end
	Purchase agreements	7 years after disposition requirement
Tax	IRS exemption determination and related correspondence	Permanent
	IRS Form 990s	Permanent
	Withholding tax statements	7 years
	Correspondence with legal counsel or accountants, not	7 years after return is filed



File Category	Item	Retention Period
	otherwise listed	
	Timecards	3 years
Communications	One set of all communication documents kept on-site and one set kept off-site	
	Press releases	Permanent
	Annual reports	Permanent (5 copies)
	Other publications	7 years
	Photos	7 years
	Press clippings	7 years
Donor Services	Fund agreements (paper and digital copies)	Permanent
	Correspondence — acknowledgment of gifts and grant requests	Permanent
	Donor fund statements	Permanent
Community Philanthropy	Records from advisory committee or family fund meetings, including minutes, if any, and lists of grants recommended for approval.	7 years
	Scholarship grant records, including applications if foundation staff participates in selection decisions	7 years
	Approved grants — all documentation supporting grant payment, including application/recommendation, due diligence, grant agreement letters, grant transmittal letters, and post-grant	7 years after completion of funded program, or date of grant if general operating support



File Category	Item	Retention Period
	reporting information, if any.	
	Foundation funding requests, correspondence, and reports (funding received)	7 years after completion of program
	Declined/withdrawn grant applications	3 years
	Foundation funding requests (denied)	3 years
Consulting Services	Consulting contracts/filed	7 years after all obligations end
Human Resources	Employee personnel files	Permanent
	Retirement plan benefits (plan descriptions, plan documents)	Permanent
	Employee medical records	Permanent
	Employee handbooks	Permanent
	Workers comp claims (after settlement)	7 years
	Employee orientation and training materials	7 years after use ends
	Employment offer letter	7 years after all obligations end
	Employment applications	3 years
	IRS Form I-9 (store separate from personnel file)	Greater of 1 year after end of service, or 3 years
	Résumés	1 year
Technology	Software licenses and support agreements	7 years after all



File Category	Item	Retention Period
		obligations end
Library	Other foundations' annual reports	2 years
	Directories and periodicals	2 years
General Administration	Correspondence — chief executive and general	7 years
	Appointment calendars — chief executive	7 years

By: _____
Chief of Staff/Corporate Secretary

Sample #2

This straightforward policy — relevant to for-profit companies but helpful because of its additional details — provides more specific guidance for different kinds of documents, and it requires an employee's signatures.

SAMPLE DOCUMENT RETENTION POLICY

The corporate records of XYZ and its subsidiaries (hereafter the "organization") are important assets. Corporate records include essentially all records you produce as an employee, whether paper or electronic. A record may be as obvious as a memorandum, an e-mail, a contract, or a case study, or, something not as obvious, such as a computerized desk calendar, an appointment book, or an expense record.

The law requires the organization to maintain certain types of corporate records, usually for a specified period of time. Failure to retain those records for those minimum periods could subject you and the organization to penalties and fines, cause the loss of rights, obstruct justice, spoil potential evidence in a lawsuit, place the organization in contempt of court, or seriously disadvantage the organization in litigation.

The organization expects all employees to fully comply with any published records retention or destruction policies and schedules, provided that all employees should note the following general exception to any stated destruction schedule: If you believe, or the organization informs you, that organization records are relevant to litigation, or potential litigation (i.e., a dispute that could result in litigation), then you must preserve those records until the legal department determines the records are no longer needed.



That exception supersedes any previously or subsequently established destruction schedule for those records. If you believe that exception may apply, or have any question regarding the possible applicability of that exception, please contact the legal department.

From time to time the organization establishes retention or destruction policies or schedules for specific categories of records in order to ensure legal compliance, and also to accomplish other objectives, such as preserving intellectual property and cost management. Several categories of documents that bear special consideration are identified below. While minimum retention periods are suggested, the retention of the documents identified below and of documents not included in the identified categories should be determined primarily by the application of the general guidelines affecting document retention identified above, as well as any other pertinent factors.

- (a) Tax Records. Tax records include, but may not be limited to, documents concerning payroll, expenses, proof of deductions, business costs, accounting procedures, and other documents concerning the organization's revenues. Tax records should be retained for at least seven years from the date of filing the applicable return.
- (b) Employment Records/Personnel Records. State and federal statutes require the organization to keep certain recruitment, employment, and personnel information. The organization should also keep personnel files that reflect performance reviews and any complaints brought against the organization or individual employees under applicable state and federal statutes. The organization should also keep all final memoranda and correspondence reflecting performance reviews and actions taken by or against personnel in the employee's personnel file. Employment and personnel records should be retained for seven years.
- (c) Board and Board Committee Materials. Meeting minutes should be retained in perpetuity in the organization's minute book. A clean copy of all board and board committee materials should be kept for no less than three years by the organization.
- (d) Press Releases/Public Filings. The organization should retain permanent copies of all press releases and publicly filed documents under the theory that the organization should have its own copy to test the accuracy of any document a member of the public can theoretically produce against that organization.
- (e) Legal Files. Legal counsel should be consulted to determine the retention period of particular documents, but legal documents should generally be maintained for a period of 10 years.



- (f) Marketing and Sales Documents. The organization should keep final copies of marketing and sales documents for the same period of time it keeps other corporate files, generally three years.

An exception to the three-year policy may be sales invoices, contracts, leases, licenses, and other legal documentation. These documents should be kept for at least seven years beyond the life of the agreement.

- (g) Development/Intellectual Property and Trade Secrets. Development documents are often subject to intellectual property protection in their final form (e.g., patents and copyrights). The documents detailing the development process are often also of value to the organization and are protected as a trade secret where the organization

- (i) derives independent economic value from the secrecy of the information
- (ii) the organization has taken affirmative steps to keep the information confidential

The organization should keep all documents designated as containing trade secret information for at least the life of the trade secret.

- (h) Contracts. Final, execution copies of all contracts entered into by the organization should be retained. The organization should retain copies of the final contracts for at least [three] years beyond the life of the agreement, and longer in the case of publicly filed contracts.

- (i) Electronic Mail. E-mail that needs to be saved should be either

- (ii) printed in hard copy and kept in the appropriate file
- (ii) downloaded to a computer file and kept electronically or on disk as a separate file

The retention period depends upon the subject matter of the e-mail, as covered elsewhere in this policy.

Failure to comply with this Document Retention Policy may result in punitive action against the employee, including suspension or termination. Questions about this policy should be referred to [name, phone number, e-mail], who is in charge of administering, enforcing, and updating this policy.

Read, understood, and agreed:



Employee's Signature

Date

“Sample Document Retention Policy,” published in conjunction within “Law Firm Document Retention Policies,” by Sharon Nelson and John Simek, published in *Law Practice Today*, July 2004, located online at <http://www.abanet.org/lpm/lpt/articles/ft07046.html>. © American Bar Association. Reprinted with permission. All rights reserved. This information appears in the ABA Law Practice Management Section publication, *Document Management & Retention*, August 2006.

This information or any portion thereof may not be stored in an electronic database or retrieval system without the express written consent of the American Bar Association.

Sample #3

This straightforward policy covers both document retention and destruction.

SAMPLE DOCUMENT RETENTION AND DESTRUCTION POLICY

Purpose

In accordance with the Sarbanes-Oxley Act, which makes it a crime to alter, cover up, falsify, or destroy any document with the intent of impeding or obstructing any official proceeding, this policy provides for the systematic review, retention, and destruction of documents received or created by XYZ in connection with the transaction of organization business. This policy covers all records and documents, regardless of physical form, contains guidelines for how long certain documents should be kept, and how records should be destroyed (unless under a legal hold). The policy is designed to ensure compliance with federal and state laws and regulations, to eliminate accidental or innocent destruction of records, and to facilitate XYZ's operations by promoting efficiency and freeing up valuable storage space.

Document Retention

XYZ follows the document retention procedures outlined below. Documents that are not listed, but are substantially similar to those listed in the schedule, will be retained for the appropriate length of time.

Corporate Records

Annual Reports to Secretary of State/Attorney General	Permanent
Articles of Incorporation	Permanent
Board Meeting and Board Committee Minutes	Permanent
Board Policies/Resolutions	Permanent
Bylaws	Permanent



Construction Documents	Permanent
Fixed Asset Records	Permanent
IRS Application for Tax-Exempt Status (Form 1023)	Permanent
IRS Determination Letter	Permanent
State Sales Tax Exemption Letter	Permanent
Contracts (after expiration)	7 years
Correspondence (general)	3 years
 <i>Accounting and Corporate Tax Records</i>	
Annual Audits and Financial Statements	Permanent
Depreciation Schedules	Permanent
IRS Form 990 Tax Returns	Permanent
General Ledgers	[7 years/Permanent]
Business Expense Records	7 years
IRS Forms 1099	7 years
Journal Entries	7 years
Invoices	7 years
Sales Records (box office, concessions, gift shop)	5 years
Petty Cash Vouchers	3 years
Cash Receipts	3 years
Credit Card Receipts	3 years
 <i>Bank Records</i>	
Check Registers	[7 years/Permanent]
Bank Deposit Slips	7 years
Bank Statements and Reconciliation	7 years
Electronic Fund Transfer Documents	7 years
 <i>Payroll and Employment Tax Records</i>	
Payroll Registers	Permanent
State Unemployment Tax Records	Permanent
Earnings Records	7 years
Garnishment Records	7 years
Payroll Tax Returns	7 years
W-2 Statements	7 years
 <i>Employee Records</i>	
Employment and Termination Agreements	Permanent
Retirement and Pension Plan Documents	Permanent
Records Relating to Promotion, Demotion, or Discharge	7 years after termination
Accident Reports and Worker's Compensation Records	5 years
Salary Schedules	5 years
Employment Applications	3 years
I-9 Forms	3 years after termination



Time Cards

2 years

Donor and Grant Records

Donor Records and Acknowledgment Letters

7 years

Grant Applications and Contracts

7 years after completion

Legal, Insurance, and Safety Records

Appraisals

Permanent

Copyright Registrations

Permanent

Environmental Studies

Permanent

Insurance Policies

Permanent

Real Estate Documents

Permanent

Stock and Bond Records

Permanent

Trademark Registrations

Permanent

Leases

6 years after expiration

OSHA Documents

5 years

General Contracts

3 years after termination

Electronic Documents and Records

Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of donations made online, that fall into one of the document types on the above schedule will be maintained for the appropriate amount of time. If a user has sufficient reason to keep an e-mail message, the message should be printed in hard copy and kept in the appropriate file or moved to an “archive” computer file folder. Backup and recovery methods will be tested on a regular basis.

Emergency Planning

XYZ’s records will be stored in a safe, secure, and accessible manner. Documents and financial files that are essential to keeping XYZ operating in an emergency will be duplicated or backed up at least every week and maintained off-site.

Document Destruction

XYZ’s chief financial officer is responsible for the ongoing process of identifying its records, which have met the required retention period, and overseeing their destruction. Destruction of financial and personnel-related documents will be accomplished by shredding.

Document destruction will be suspended immediately, upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation.

Compliance

Failure on the part of employees to follow this policy can result in possible civil and criminal sanctions against XYZ and its employees and possible disciplinary action



against responsible individuals. The chief financial officer and finance committee chair will periodically review these procedures with legal counsel or the organization's certified public accountant to ensure that they are in compliance with new or revised regulations.

Sample #4

This short policy provides explicit guidelines on how to destroy documents containing confidential information, which is particularly important for certain kinds of health and social service providers that are subject to government regulation about client privacy.

SHREDDING/DESTRUCTION POLICY

Introduction

XYZ requires that any items or documents containing patient protected health information (PHI) that are assigned to be destroyed be shredded or marked out (redacted) with permanent ink before being placed in the garbage.

Staff Duties

When shredding/destroying documents or items with PHI, proceed as follows:

- If you can still read the document even after shredding or redaction, it must be reshredded crosswise, or otherwise destroyed.
- Always look at your shredded document to make sure that it is completely unreadable.
- If a document cannot be immediately destroyed or made unreadable, it must be placed in a secure container that is not accessible to patients, visitors, or anyone else who is not on [the treatment team] and does not have permission to see the document.
- Do not try to tear up the document by hand because this almost never works as a way to make it unreadable.



Suggested Resources

- “The Sarbanes-Oxley Act and Its Implications for Nonprofit Organizations.” Washington, DC: BoardSource and Independent Sector.
http://www.independentsector.org/uploads/Accountability_Documents/sarbanes_oxley_implications.pdf
- Lexis Nexis, Applied Discovery. “Document Retention & Destruction Policies: What You Don’t Know *Can* Hurt You.”
www.lexisnexis.com/applieddiscovery/lawlibrary/whitePapers/ADI_WP_DocRetentionDestruction.pdf