

Ethical and Operational Standards for Indiana Community Foundations

Originally Prepared by:

Dr. Eugene Tempel
Executive Director
Indiana University
Center on Philanthropy

Indiana Grantmakers Alliance
Community Foundation Committee
Sandy Daniels, Chair
Executive Director
Johnson County Community Foundation

Dr. David H. Smith
Director
Indiana University
Poynter Center

June 2000

Revised:
September 2004

Ethical and Operational Standards for Community Foundations

Introduction

The philanthropic nonprofit sector is comprised of a wide variety of organizations, including charitable entities described in Internal Revenue Code section 501(c)(3). The language of the Code recognizes the variety as follows: “Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. . . .”

Despite this wide range of purposes, these organizations have in common a dedication to the public good. Code section 501(c)(3) also speaks against private benefit to staff, boards, and others: “. . . no part of the net earnings of [these organizations] inures to the benefit of any private shareholder or individual”

Government is understood to provide for the public good through constitutional or similar mandate. The for-profit sector is understood to provide for voluntary action but for private gain. Nonprofit organizations provide for the public good through voluntary action. The nonprofit sector is challenged to a high standard to ensure that the opportunity of giving time and money remain voluntary, while the stewardship of these contributed resources assures use for the public good.

INDEPENDENT SECTOR reminds us that "those who presume to serve the public good must assume a public trust." They must hold themselves to high standards of public accountability. For those working in the nonprofit sector it means commitment beyond themselves, and commitment beyond the bare minimum. It means adherence to a standard of ethical behavior that assures donors, volunteers, and clients that their best interests are being served.

Codes of ethics provide guideposts for serving these interests. However, staff and boards of nonprofit organizations should commit themselves to create a culture in which a consciousness about the ethics of the sector permeates through the organization. All nonprofit organizations must engage volunteers and donors and demonstrate stewardship of resources according to standards that are consistent, fair, and prudent. In the nonprofit sector, this is nowhere more important than in the community foundation.

Community foundations exist to help citizens help each other. They offer donors reliable administration, insight, and a way of keeping their gifts pertinent to a changing society; they offer assistance to citizens in need--whether that assistance takes the form of provision of food and shelter, public cultural places and events, or recreational opportunities. Because they are engaged in helping and are entrusted with resources provided by others, community foundations have a high moral calling. They are depended on, and they claim to speak to and for an entire community.

In fact, leaders of community foundations have to build trust where it may be lacking. Thus, one important agenda for leaders of community foundations is the establishment and maintenance of public trust. People are looking for integrity and character in leaders. Directors and staff of community foundations are no exception to that, although they are often less visible than some other community leaders.

It is a hallmark of American democracy that we have always valued freedom highly. We treasure our freedom to give. There are ongoing issues of who should meet which needs, and many forms of cooperation between private philanthropy and public assistance are extensive and successful. Public provision of some basic necessities may be particularly important.

The discretion that a community foundation possesses is invaluable in this mix. Leadership of our foundations must contribute a vision of what the community needs and can be. The cause identified in the vision must contribute to the common good. The term "common good" refers to the quality of our life together as well as to whether it is a "good life." To secure the common good means to act according to at least four moral principles.

First, we need to be just or play fair. Nothing destroys trust faster than a perception of favoritism, that certain persons because of their connections or wealth or influence are treated better than others. Benefits may go only to a small number of people, but the qualifications for receiving the benefit should be tied to some particular need or goal, not based on some characteristic irrelevant to the benefit provided.

Second, to be trusted we have to be honest. Dishonesty is a terrible thing in leadership in a democracy. People rightly feel abused when they are lied to, even if no other harm is done. When mistakes happen--not if, but when--they should be acknowledged and the foundation should move on.

Third, trust requires production of real benefit. A community must come to see that real people are clearly helped. The cornerstone of the foundation is the fact that we are not collectively indifferent to the plight of our fellows. Community need is a notoriously hard thing to define, and a key role of directors is refining the definition of the goals that one's organization hopes to meet. Directors of community foundations have great power in this respect. If we are to sustain the public's trust, we must change our focus, consistent with what we have done in the past, to respond to new configurations of community need.

Fourth, community foundations must respect difference. Sometimes some American communities are presented as completely homogeneous. Everyone is thought to be alike. But we think that the diversity of persons within any community must be kept in mind. It would be a strange irony if a community foundation, resting as it does on the value of freedom, should be insensitive to the diverse, public causes for which people live and the many traditions that are woven together in their communities.

Because the work of community foundations depends on trust, all those associated with community foundations—directors, donors, volunteers, and staff—should make a commitment to

uphold the public trust. INDEPENDENT SECTOR's list of Nine Beliefs or commitments provide a broad context¹:

- **Commitment beyond self** is at the core of a civil society;
- **Obedience to the laws**, including those governing tax-exempt philanthropic and voluntary organizations, is a fundamental responsibility of stewardship;
- **Commitment beyond the law**, obedience to the unenforceable, is the higher obligation of leaders of philanthropic and voluntary organizations;
- **Commitment to the public good** requires those who presume to serve the public good to assume a public trust;
- **Respect for the worth and dignity of individuals** is a special leadership responsibility of philanthropic and voluntary organizations;
- **Tolerance, diversity, and social justice** reflect the independent sector's rich heritage and the essential protections afforded it;
- **Accountability to the public** is a fundamental responsibility of public benefit organizations;
- **Openness and honesty** in reporting, fundraising, and relationships with all constituencies are essential behaviors for organizations which seek and use public or private funds and which purport to serve public purposes; and
- **Responsible stewardship of resources is a concomitant of public trust.**

¹ Obedience to the Unenforceable: Ethics and the Nation's Voluntary and Philanthropic Community (Washington, DC: Independent Sector, 1991, 2002) 18.

Ethical Standards for Community Foundations

Public trust is the key to a community foundation's success. The Community Foundation Committee believes that foundations that act in accordance with these general principles will secure trust. As foundations work based on these principles, the following standards of technical competencies and ethical values will help us to best earn and keep the public's trust.

The ethical standards for community foundations are incorporated in the five areas of community foundation activity (Governance, Management, Grantmaking, Resource Development, and Communications and Public Relations), and in the definition of a community foundation.

In each of these areas, the ethical standards of different professional associations may be referenced as benchmarks. The codes of ethics that relate to each area are indicated and may be consulted for more detail, suggestions, and guidance.

Definition of a Community Foundation

- A community foundation is a tax-exempt, nonprofit, autonomous, publicly supported non-sectarian philanthropic institution with a long term goal of building permanent, named, component funds established by many separate donors for the broad-based charitable benefit of residents of a defined geographic area, typically no larger than a state.
- A community foundation serves a particular geographic area such as a municipality, county, state, metropolitan area or closely related aggregation of such areas that are considered for some purposes as a community, typically no larger than one state. An organization serving a single greater metropolitan area would satisfy this criterion even if that greater metropolitan area included parts of several states. This criterion excludes national and multi-national organizations.
- A community foundation is not controlled by any other non-profit organization, or by any single family, business, or government entity or any narrow group within the community.

Governance

The standards of conduct of BoardSource apply to governance. Specific ethical standards for community foundations include the following:

- Members of the community foundation board serve for the public good and identify and resolve real and potential conflicts of interest.
- The community foundation board members serve without compensation.

- Board members are informed of the legal requirements of the community foundation and accept responsibility for assuring that the community foundation meets its legal requirements.
- A community foundation's governing body ensures that the community foundation reflects the diversity of the community it serves.

Management

The codes of ethics of the American Society for Public Administration (ASPA) and the Society for Human Resource Management provide guidance for the management of community foundations. Specific ethical standards of management include the following:

- Funds are invested to meet community foundation goals and not because of personal or business relationships.
- Staff are provided with opportunities to develop the skills and competencies necessary for operating a community foundation.
- Public records are kept in such a manner that they are easily understood and easily accessible to the public.
- All decisions about grants, programs, and priorities are made in the best interest of the community foundation and in furtherance of its mission.

Grantmaking

The code of ethics of the Council on Foundations addresses grantmaking. Specific ethical standards for community foundation grantmaking include the following:

- Grantmaking decisions are made based upon fair and unbiased criteria.
- Grantmaking members disclose conflicts of interest on individual grants.
- Grantmaking members are representative of the community.
- The process and criteria for applying for grants are open and accessible, easily understood by potential grantees, and broadly communicated.
- Community foundations treat grantees with dignity and respect, viewing them as partners rather than as recipients.
- Community foundations hold grantees to high standards of performance and accountability.

- The community foundation operates a broad grants program which includes:
 - multiple grantees limited neither by a single focus or cause, nor being exclusively to the interest of a particular constituency;
 - awards of some grants from its discretionary resources through open, competitive processes that address the changing needs of the community;
 - grant impact to all sub-sectors of the community's public needs and awards which complement other community resources.

Resource Development

The codes of ethics for the Association of Fundraising Professionals (AFP), the National Committee on Planned Giving, and the Donor Bill of Rights provide guidelines regarding resource development. The following ethical standards apply specifically to resource development for community foundations:

- A community foundation provides proper stewardship of all accepted gifts.
- A community foundation strives to discern and follow not only the technical requirements but also the spirit of donor intent.
- Staff of a community foundation are compensated on a salary or hourly rate basis and do not seek compensation based on commissions, percentages of gifts received, or pay finders fees for gifts directed to the community foundation. Independent contractors will be paid a set fee for services.
- The community foundation conducts its asset development with respect for donors and with the donors' interest and welfare in mind.
- Community foundations, when appropriate, offer donors options for making gifts, including making gifts to organizations other than the community foundation.

Communications and Public Relations

The code of ethics of the Public Relations Society of America is a helpful resource in this area of community foundation activity. The following ethical standards apply to communications and public relations at community foundations:

- The community foundation reports to its various publics on its overall activities in an open, honest, direct, and intentional manner.

- The community foundation actively seeks the input and involvement of the community at large.
- All communications protect the donor's right to privacy, including anonymity, to the extent required by law or by agreement.
- Staff and volunteers exercise discretion in use of information about organizations and donors.

Operational Standards for Community Foundations

A community foundation is a tax-exempt, nonprofit, autonomous, publicly supported, non-sectarian philanthropic institution with a long term goal of building permanent, named component funds established by many separate donors for the broad-based charitable benefit of the residents of a defined geographic area, typically no larger than a state.

Community foundations must meet the following minimum requirements (standards) in order to adhere to the *Ethical and Operational Standards* of the field. These requirements can be related to the five areas of community foundation activity (governance, management, grantmaking, resource development, and communications and public relations). Recommended best practices are also listed below in each item.

Governance and Management

The governance of a community foundation consists of oversight by the board of the organization, which sets policy and oversees operation of the organization. Most community foundations are organized in corporate form and therefore the governing body is the board of directors. A few foundations are organized in the trust form and are technically governed by a board of trustees, which may be formed by the trustee banks. The banks frequently delegate the function of distributing money to the community trust and therefore a community foundation distribution committee is the entity that oversees grantmaking. The following are basic requirements for a community foundation board:

- The board prepares and supports the foundation's mission statement and periodically reviews and refines it. The board is responsible for the mission, direction, and policies of the organization.

Best Practices:

- The mission statement is reviewed every three years.
- The board and staff can describe the essence of the mission statement.

- Articles of incorporation and bylaws are developed, filed and maintained in compliance with appropriate state laws.

Best Practices:

- Articles and bylaws are reviewed annually to ensure compliance and conformity with operations.

- Tax-exempt status is maintained as determined by the IRS through a final Internal Revenue Code section 501(c)(3) ruling.
- Federal and state tax identification numbers as required are obtained.
- The foundation conforms to applicable government regulations or requirements to include, but are not limited to, corporate formalities including filings, and all current

legislation and regulations concerning employment, operations, and service delivery, and consults with legal counsel when necessary. Specifically, the foundation:

- maintains corporate formalities, such as annual meetings and keeping of minutes for all business.
- files corporate documents in a timely fashion (IRS Form 990, payroll taxes, state reports).
- abides by current legislation and regulations concerning non-discrimination in employment, operations and service delivery.
- has an established relationship with competent legal counsel.

Best Practices:

- The foundation provides periodic training to staff, board, and volunteers concerning employment non-discrimination laws.
 - The foundation's legal counsel is knowledgeable and current with laws and regulations related to nonprofit law, tax law, charitable giving, etc., specific to community foundations.
 - There is a guiding policy for issues and circumstances that require consultation.
- A community foundation's governing body retains variance power by which it may modify any restriction or condition on the distribution and investment of assets, if circumstances warrant.²
 - The foundation conforms to Internal Revenue Code section 4958 and similar rules governing excess benefit transactions.
 - There are policies, systems, and procedures for nomination, election and rotation of board members which include term limits and a conflict of interest policy; policies for the size of the board; required number of meetings annually; and structures and responsibilities of standing committees.³

Best Practices:

- Prospective board members are screened to assure reputable backgrounds.
 - Board members complete a conflict of interest statement annually.
 - Board composition reflects the diversity of the community served.
 - A nominating process exists, and this process is made known to the public.
 - A board member may not serve more than ten consecutive years.
- There are regularly scheduled board meetings at least quarterly.
 - Board meetings are announced in advance, with provisions for changes with proper notice.
 - A procedure is in place for action to be taken between regularly scheduled meetings.

² Treasury Regulations section 1.170A-9(e)(11)(v)(B)

³ See Treasury Regulations sections 1.170A-9(e)(11)(ii)(B); 1.507-2(a)(8)(ii)(C); 1.170A-9(e)(13)(iv)(A).

Best Practices:

- The board meets as frequently as needed, determined by the foundation's age and development.
 - All board meetings are duly recorded to document actions and policies.
 - The board conducts an annual analysis of its own performance and attends to the results.
- The board maintains a structure to effectively and efficiently achieve the foundation's goals, including:
 - evaluating the performance of the chief executive officer at least annually.
 - reviewing the foundation's financial statements at least quarterly, ensuring that an audit or financial review is conducted annually, reviewing the results, and making any necessary changes.
 - ensuring adequate human and financial resources.
 - The board causes a strategic plan to be developed and monitors progress accordingly.

Best Practices:

- A community foundation assures its knowledge of the community's needs.
- A policy is in place for appropriate board oversight of all grant approvals.

Human Resources Administration

A community foundation achieves its mission through the efforts of its human resources, both paid and volunteer staff. Recruiting and retaining qualified people are primary goals of a foundation's human resource management. Successful operation of a community foundation requires unique skills and knowledge. Successful operation is achieved through a well-planned and implemented system that includes appropriate personnel policies, procedures and practices.

- The foundation has written personnel policies that include the following:
 - Office hours
 - A schedule for vacation, sick days, etc.
 - Eligibility for benefits
 - Non-discrimination policy
 - Policies and procedures for termination
 - Any other statutory benefits/requirements

Best Practices:

- Written personnel policies also include the following:
 - Payroll and timekeeping standards

- Expense documentation and reimbursement
- Internal grievance procedure with at least two (2) reporting contacts
- anti-harassment policies
- Policies and procedures for employee evaluation and discipline
- A written salary administration plan is in place which includes the following:
 - Employee evaluation plan/schedule
 - Evaluation criteria
 - Benefits plan
 - Bench-marking of salaries for the field and community
 - Knowledge of excess benefit transaction rules and potential impact
 - Expense reimbursement requires approval of other than person being reimbursed
- Job descriptions exist for all paid personnel.
- Volunteer management policies exist.

Best Practices:

- Job descriptions exist for volunteers.
- There is a system for recognizing volunteer service.
- Volunteer performance is evaluated on a regular basis.
- Pre-assignment screening of volunteers' credentials and background is performed.
- There is a periodic individual written review of volunteer's performance.
- Hiring procedures comply with federal/state laws, forms, and documentation.

Best Practices:

- A pre-hire screening of employees' credentials and background is performed.
- Position qualifications and policies regarding equal opportunity are clearly specified; sexual harassment and other grievance procedures are outlined.

Best Practices:

- Job vacancies are advertised appropriately to produce a suitable number of qualified candidates.
- Confidential personnel files are maintained and performance is regularly monitored and documented as the basis for performance reviews and salary administration. Confidential medical files are separately maintained.

Best Practices:

- All staff are given opportunities and support for continuing education in order to meet most effectively the job requirements.
- All staff are periodically trained concerning federal and state anti-discrimination laws.
- Workplace posters required by federal and state law are displayed.

Fiscal Administration

A useful, accurate, and accountable financial management system is critical to the operations and mission of a community foundation. Proper financial management, accounting, and reporting are required for accountability, for effective service to community foundation constituents, and for guidance in decision-making and planning by board and staff.

- The board reviews the foundation's financial statements at least quarterly and ensures that an audit or financial review is conducted by an independent public accountant annually.

Best Practices:

- The board receives and reviews a management letter in conjunction with the annual audit.
- The board conducts periodic reviews of insurance coverage in relation to comprehensive risk assessment.
- The board monitors and ensures full compliance with the public support test as set forth in Internal Revenue Code Section 170(b)(1)(A)(vi) as modified by Treasury Regulation Section 170A-9(e)(10).
- An accounting system is used which records financial transactions and ensures processing to the appropriate fund.
- A community foundation provides fund statements, at least annually, to those donors who wish to receive them.
- Federal and state tax returns are filed on a timely basis.

Best Practices:

- Schedules for withholdings tax, tax-deferred annuities, etc., are reviewed at least annually.
- All executed agreements and corporate documents are safeguarded against theft, loss, and damage.
- The board accepts responsibility to ensure adequate operating funds, including establishing and equitably applying a fee structure to all funds, and reviewing and adopting an annual operating budget.
- The community foundation has an investment policy that is in compliance with fiduciary responsibilities and includes asset allocation guidelines, a spending policy, and criteria for measuring performance. The foundation regularly monitors investment performance.

Best Practices:

- The foundation retains the services of one or more investment managers.

- The community foundation makes available to the public, upon request, the names of its investment managers, fees charged (including investment and administrative fees), governing body or appointees responsible for investment oversight and investment.

Grantmaking

Grantmaking is perhaps the most visible element of a foundation's service to the community. The community foundation's grant program reflects both donor interests as well as the philosophy of the foundation. Grantmaking priorities and processes change over time due to emerging needs in the community. An effective relationship between the foundation as grantor, and community organizations as grantees, is based on mutual respect and partnership.

- A community foundation operates a broad grants program which includes: multiple grantees limited neither by a single focus or cause nor being exclusively to the interest of a particular constituency; awards of some grants from its discretionary resources through open, competitive processes that address the changing needs of the community; grant impact to all sub-sectors of the community's public needs and awards which complement other community resources.
- The grant program (including written criteria, application procedures and deadlines) is widely communicated and distributed to the community served.
- Evaluation criteria are consistent with directives or limitations as set forth in the articles of incorporation and bylaws (for example, geographic limitations, grants to individuals, etc.).
- A community foundation performs appropriate due diligence to ensure that grants will be used for charitable purposes.
- A grant agreement (be it a letter or formal agreement) is issued with each grant.

Best Practices:

- The foundation maintains written rationale for declined grants.
- All grants are monitored and evaluated for effectiveness and compliance.
- Members disclose any conflicts of interest related to applicants or grantees at each meeting at which grant decisions are made.
- An annual report summarizes grants made (grantee, purpose, and amount) in that timeframe.
- Guidelines and procedures are used for donor advised funds to assure board oversight.
- The community foundation treats all potential, existing and past grantees fairly and equitably and facilitates their equal access to the grants program.
- The grants program is routinely evaluated to assure forms and procedures meet current needs, facilitate participation, and reflect the mission and values of the foundation.

- The community foundation serves as a community leader, stimulating community dialogue and decision-making that help define common goals and solve crucial problems.

Best Practices:

- The community foundation serves as a collaborator/convener to help develop solutions to important community issues.
- The foundation publicizes the work of grantees to community leaders and the general public.
- The executive director and/or other appropriate staff /board members meet periodically with local, state, and national representatives and other key community leaders of the public, private and nonprofit sectors to discuss community needs, projects, and resources.

Resource Development

Building assets is crucial to the success of a community foundation. Additional gifts, both large and small, must be sought not only to maintain public charity status, but to grow the endowment to provide for the ever-growing charitable needs of the community.

- The foundation seeks competent legal counsel when accepting deferred and/or complicated gift arrangements.
- The foundation's fund agreements are approved by legal counsel, along with any variations.

Best Practices:

- All standard agreements are uniform.
- A development plan is designed and approved by the community foundation board to ensure the long-term growth of the endowment through additional contributions and funds.
- The foundation advises donors to consult with their legal or other professional advisors (estate planner, etc) before making a deferred gift.
- The foundation has devised a respectful process for identifying potential donors.
- Responsibilities for resource development of board and staff members are outlined.

Best Practices:

- The foundation has established a system for donor education and cultivation.
- A donor recognition program is in place.

- The foundation is conversant in and utilizes planned giving vehicles on a regular basis.
- The foundation provides education for professional advisors.
- The foundation thoroughly evaluates its ability to accept and administer all gifts, including considering risk management implications.

Best Practices:

- The foundation is equipped to accept and administer most types of gifts, both current and deferred.
- A community foundation works to develop broad support in the form of contributions from many separate, unrelated donors with diverse charitable interests in the community through:
 - conducting its asset development with respect for donors and with the donors' interest and welfare in mind.
 - seeking and accepting gifts that assist donors in fulfilling their charitable wishes.
 - offering donors options for making gifts, including gifts to organizations other than the community foundation that could serve the donor's charitable intentions.
 - accepting and administering a diversity of gift and fund types to meet the varied philanthropic objectives of donors.
- A community foundation promptly and accurately acknowledges gifts.
- Contributions to a community foundation represent irrevocable gifts subject to the legal and fiduciary control of the community foundation's governing body.
- The community foundation adopts gift and fund acceptance policies that address minimum fund size, types of fund options, types of gift mechanisms, and policies and procedures for accepting various types of assets, and makes these policies available upon request.
- During the gift planning process, the role and relationships of all parties involved are fully disclosed to the donor.
- The community foundation maintains a written record of the terms and conditions of each component fund and all such records reference the variance power.
- The community foundation observes the balance between donor involvement and governing board control and complies with applicable laws and regulations.
- The community foundation informs and educates donors about community issues and grantmaking opportunities.

Communications and Public Relations

The community foundation reports to its various publics on its overall activities in an open, honest, direct, and intentional manner. A variety of communication venues are used to reach the broadest range of constituents.

- The community foundation actively seeks the input and involvement of the community at large by identifying its constituents and responding quickly and accurately to requests for information about its activities.

Best Practices:

- The foundation maintains a current and accurate database of all constituents.
- The foundation conducts an ongoing, systematic communications effort that is appropriate to the foundation's size and resources.
- The community foundation has a communication strategy that is open and welcoming to public scrutiny and includes a report, widely distributed at least annually, which describes the community foundation's mission, activities and financial operations.
- All communications protect the donor's right to privacy, including anonymity, to the extent required by law or by agreement with the donor. The foundation has confidentiality policies related to treatment of donor lists and information.
- Staff and volunteers exercise discretion in the use of information about organizations and donors learned through the grantmaking and asset development processes.

Resources

The standards of conduct of BoardSource
www.boardsource.org

The code of ethics of the American Society for Public Administration (ASPA)
www.aspanet.org

The code of ethics of the Society for Human Resource Management
www.shrm.org

The code of ethics of the Council on Foundations
www.cof.org

The code of ethics for the Association of Fundraising Professionals (AFP)
www.afpnet.org

The code of ethics of the National Committee on Planned Giving
www.ncpg.org

The Donor Bill of Rights
www.aafrc.com/counsel/donorbor.html

The code of ethics of the Public Relations Society of America
www.prsa.org

Questions regarding this document should be directed to:

Ms. Jenny Kloer
Director, GIFT
Indiana Grantmakers Alliance
32 East Washington Street
Suite 1100
Indianapolis, IN 46204
jkloer@indianagrantomakers.org
(317) 630-5200