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NONPROFIT WORLD

The National Nonprofit Leadership and Management Journal

Volume 21, Number 3 | May/June 2003

DONATED COMPUTERS— Burden or Blessing?

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NONPROFIT WORLD

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Purpose

The Society for Nonprofit Organizations is a 501 (c) (3) nonprofit organization. Through *Nonprofit World* and other communications with its members, the Society is dedicated to bringing together those who serve the nonprofit world in order to build a strong network of professionals throughout the country.

This logo symbolizes the goal of the Society, which is to unify diverse segments of the nonprofit world, to draw them together, and to create a dynamic whole without losing their individuality.

on the cover

Jane Meseck of Microsoft and Jim Lynch of CompuMentor team up to educate consumers on the proper steps for donating computers and computer accessories to schools and nonprofits. See "Donated Computers—Burden Or Blessing?" on page 17.

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EDITOR'S *page*

Risk, Stress, and How to Sleep at Night

Are you and your organization immune from lawsuits? Or do you just operate as if you are?

Because your cause is good and your heart's in the right place, does that mean no one would dare sue you? Of course not. Yet nonprofits sometimes act that way. They dive into programs without checking legalities. They forget to call an attorney to bring their policies up to date. When they receive *Nonprofit World*, they flip straight to "Fundraising Forum" and put "Legal Counsel" aside to read later. Sometimes "later" never comes.

If that's you, you're not alone.

The solution is simple. Before you act, weigh the legal consequences. Don't wait till it's too late to seek counsel, read the fine print, or consider the hidden repercussions. Make it a habit to do so before you enter into any transaction.

It doesn't make sense to risk your organization's future—its very survival—for lack of a few basic steps. When hiring, for example, it's natural to want your new employee to start right away. But it's worth the time to examine references and perform background checks (see "Don't Be Sued for Negligent Hiring" on page 14). Follow the suggestions under "What Steps Will Guard Against Lawsuits?" on page 14. In addition to warding off lawsuits, these tips will help you create a safe, healthy, stress-free environment for your workers.

"The palest ink is better than the most powerful memory."

One way to cut your risks is to set up a system to check the reliability of your accounting data and management policies. To assure that you have the proper system in place, answer the questions in "How Good Are Your Internal Controls?" (page 27).

Remember one of the simplest but most pivotal of all rules: Put it in writing. "The palest ink is better than the most powerful memory," as Ed Rigsbee notes in "In Bed with the Enemy: How to Partner with Your Competition" on page 22.

Detailed records, contracts, and policies will serve as testaments to your good faith and touchstones to mark your way. If you have a policy for accepting non-cash donations, such as computers, for example, your gift horse isn't so likely to turn into a Trojan horse, and you can be sure you're legally covered. See "Donated Computers—Burden Or Blessing?" on page 17.

Although they may never tell you so, your board members—and potential board members—may be reluctant to serve for fear of being sued. You can put their minds at ease by giving them copies of "Reduce Your Risk of Liability" (page 9).

Of course there's no way to predict every danger. But being aware of emerging trends is one way to help fend off disaster. To celebrate *Nonprofit World*'s 20th anniversary, we've asked experts for their ideas on what to look out for (see pages 18 and 29).

Paying attention to risk shows that you care about people's welfare and your organization's well-being. Such prudence translates into high employee morale and a stellar reputation for your organization—two of your most precious assets—and assures that you, your staff, and your board members can all sleep soundly at night. ■

Jill Muehrcke
Editor, *Nonprofit World*

LETTERS *to the editor*

Exotic Word or Slip of the Pen?

First of all, congratulations on your excellent magazine. I enjoy it a lot and find many useful articles and information in each issue. In your Vol. 20, No. 6 issue, on page 39, you describe what the earth's population would look like if we shrank it to 100 people, with existing ratios remaining the same, and you say that only one person would own a computer, and only one would have a teritiary education. I can't find the word "teritiary" in my dictionary. What does it mean? I like learning new words so am anxious for your response.

C. Russ Nickel
Executive Director, WASBO
russ@wasbo.org

Sorry to say, it's not a new word but a typographical error! It's supposed to be tertiary, as in primary, secondary, and tertiary education. Hey, thanks for reading so carefully!

–Ed.

Curious about the Media

I'm looking for examples of nonprofit organizations that effectively use mass media to promote their cause. My initial research has identified two organizations that have successfully increased their media exposure. One is the Michigan Nonprofit Association, whose partnership with PR Newswires gives member organizations increased access to the press. The other is Habitat for Humanity, whose strategy includes the involvement of journalists in home-building projects. Do you have any other information or perhaps a case study on the topic of nonprofits and the media?

Lawrence Lee
Jr. Research Analyst
Knowledge Center, North America
(McKC-NA)

See "Top 10 Keys to Effective Communications" (Vol. 15, No. 4 of Nonprofit World, *www.snpo.org), which profiles the San Diego Council on Literacy, whose strategy includes inviting media personalities to participate in its events as masters of ceremony, auctioneers, and celebrity guests.*

–Ed.

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Join the Celebration!

On *Nonprofit World*'s 20th anniversary, we invite you to help us celebrate by joining in the sharing process. Your ideas are important to us and of benefit to all in the nonprofit world.

There are many ways you can make a contribution. Here are a few:

1. Send us your reactions—both good and bad!—to articles in *Nonprofit World* so that we can be sure we're tuned in to your needs and concerns.
2. Send us creative ideas which you or others have used to raise funds. We'll add them to our list of "Creative Fundraising Ideas."
3. Send us ideas for subjects you'd like covered in *Nonprofit World.*
4. Turn one of your ideas into an article for *Nonprofit World.*
5. Send us a photo with a few paragraphs about your organization. We'll feature your organization on the cover of *Nonprofit World.*

Send all the above to: Editor, *Nonprofit World,* P.O. Box 45346, Madison, Wisconsin 53744-5346, muehrcke@core.com.

ASK *the experts*

Must You Inform IRS of Bylaw Changes?

If you make small changes in your bylaws, do you need to let the IRS know?

Q: Recently our organization made some changes in our bylaws. We expanded our board and revised information about our membership meetings. We did not change our purpose or territory. Do we need to inform the IRS or our state regulatory department when we make changes? I was told that all changes in bylaws must be submitted to the IRS (to assure them we haven't changed anything that might affect our nonprofit status). If we must do this, how should we go about it?

Barb Dorn, Outreach Program Director
Prader-Willi Syndrome Association of Wisconsin
pwsawi@chorus.net

A: An organization exempt from federal income tax, as described in Internal Revenue Code 501(c)(3), is required to report changes to its bylaws and other governing documents annually to the IRS on the organization's IRS Form 990. Material changes to a tax-exempt organization's character, purposes, or methods of operation should be reported to the IRS as soon as possible because such changes, if inconsistent with the organization's tax exemption, may affect the organization's tax-exempt status. In your case, notifying the IRS on your organization's next annual Form 990 should be sufficient.

If your organization is subject to registration with the Wisconsin Department of Regulation and Licensing, you are also required to file a copy of the amendment to your bylaws with the Department of Regulation and Licensing within 30 days of adoption of the amendment in accordance with Wisconsin Statutes Section 440.42(6).

Paul W. Mourning
Cadwalader, Wickersham & Taft
New York, New York

What Are Ideal Term Limits for the Board?

Q: What is your recommendation regarding renewing terms for board members (term limits)? What is the ideal term for board officers?

A: My belief is that folks should continue to serve if they are doing a good job as defined by the board as a whole. This doesn't mean they are just showing up occasionally and once were productive. It means there would be a real hole if they left.

As for board officers, that depends very much on your group and the size of the job. There's a women's group called Hadassah that has a four-year term for president because of the size of the job. Many groups have a one or two year term for president. The one position I believe should be at least two years is the treasurer because of the time it takes to set up signatures and understand the accounting procedures. ■

Carol Weisman, President
Board Builders
48 Granada Way
St. Louis, Missouri 63124
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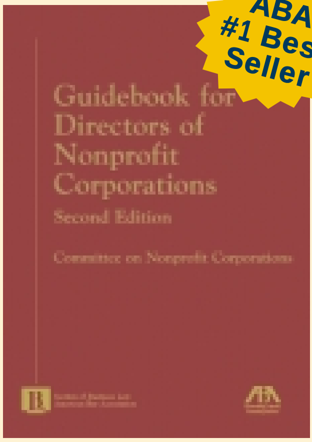
What Every Nonprofit Director and Manager Should Know about Effective Governance for Nonprofits



Nonprofit Governance Library

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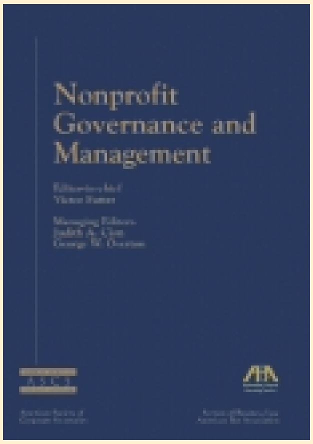
This *Library*, including three publications, *Guidebook for the Directors of Nonprofit Corporations, Second Edition*; *Nonprofit Governance and Management*; *Nonprofit Resources: A Companion to Nonprofit Governance*, offers legal guidance on directors' duties, rights, risks and obligations; practical how-to-commentary; sample forms and letters; handy checklists; and pointers for both nonprofit directors and staff. Also, the third title in this *Library* is a reference listing books, handbooks, professional journals, government publications, foundation reports, case and statutory citations, and Internet sites related to nonprofit governance. The Three publication titles within the *Library* are described as:

1) Guidebook for Directors of Nonprofit Corporations, Second Edition

By the Committee on Nonprofit Corporations, ABA Section of Business Law
2002 280 pages 7 x 10 Paperback

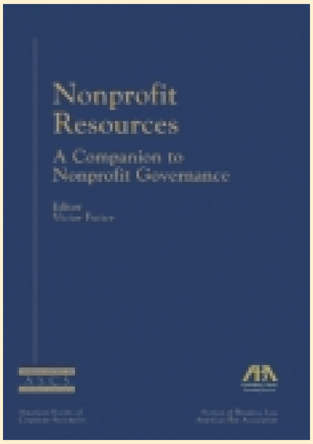
A new edition of the ABA's most popular title, this accessible guidebook is designed for directors and prospective directors of all types of nonprofit corporations. The Guidebook, written in plain-English commentary, addresses general legal principles and corporate governance issues to provide nonprofit directors with a comprehensive understanding of their roles. The new Second Edition adds full-length chapters covering today's changed political and legal environment for nonprofits; tax ramifications of profit and joint ventures; employee relationships, laws, and policies; duties of directors in special circumstances such as change-of-control events and bankruptcy.



2) Nonprofit Governance and Management

Edited by Victor Futter, Judith A. Cion and George V. Overton
2002 744 pages 7 x 10 Paperback

This updated edition of *Nonprofit Governance-The Executive's Guide* expands the scope of its popular predecessor to address issues relevant to both directors and managers of nonprofits. Drawing on the expertise of nonprofit executives, directors, lawyers, and other professionals experienced in organization and management, this new edition offers step-by-step guidelines, sample forms and letters, handy check-lists and pointers to additional resources. Topics include accounting, board and committee operations, grant writing, Internet laws, liability, membership, mission statements, state regulations, and much more.



3) Nonprofit Resources: A Companion to Nonprofit Governance

Edited by Victor Futter
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FIRST *alert*

Standards for Nonprofit Boards Are Being Raised

Nonprofit boards are feeling the effects of the Sarbanes-Oxley Act of 2002, which subjects corporate boards to a host of strict requirements. As we predicted in "Keep Your Board Above Board: What You Need to Know about Sarbanes-Oxley" (First Alert, *Nonprofit World*, Vol. 21, No. 1, www.snpo.org), states have begun to apply this federal legislation to nonprofit boards. New York, for one, is seeking to force nonprofits with revenues of $250,000 or more to comply with Sarbanes-Oxley (www.fdncenter.org).

Even if your state doesn't yet require these new standards, it's a good idea to adopt them voluntarily. Doing so will help you maintain donor confidence, avoid devastating lawsuits, assure the best possible management and governance of your organization, and make your board more independent, responsible, and knowledgeable.

Here's what you need to do: Be able to certify the accuracy of your organization's financial statements, ensure adequate internal controls, form an audit committee, adopt a code of ethics for financial officers, and have a sufficient number of independent board members, who are active participants rather than passive bystanders.

Take Care When Signing Technical Agreements

If you get into a dispute with computer developers who don't do what you think they promised, don't expect to win a lawsuit on summary judgment without a trial. That's the lesson of a claim in the federal District Court in Dallas, according to Don Kramer's *Nonprofit Issues* (www.nonprofitissues.com).

The nonprofit National Center for Public Policy Analysis contracted with Fiscal Associates to develop a computer model of the healthcare market. After the model was completed, however, economists to whom the Center submitted the material said it was flawed. The Center filed suit, claiming breach of contract and fraud (*National Center for Public Policy Analysis v. Fiscal Associates*).

The Court refused to issue a summary judgment for the Center, saying that the contract was "ambiguous" because the term "computer model" is open to more than one reasonable interpretation and the contract didn't clarify the model's technical characteristics.

"It is dangerous for executives to sign technical contracts of this nature without careful review by technically competent individuals," says Kramer. "You want to be as sure as you can that the requirements are precisely stated so that there is less likely to be a subsequent dispute over what was intended.

"Even with careful review, however, it is probably almost impossible to assure that there won't be enough ambiguity to force a case to trial. Your best bet is to deal with someone you know or someone with a good reputation for competence and willingness to work with their clients to get the right results. That usually beats litigation in any case."

Can Nonprofit Say "No Thanks" to Volunteer?

A judge who ordered a man to serve 350 hours of community service at a nonprofit organization changed his mind when the nonprofit objected. The judge ordered the man, accused of stealing government property and misusing his staff, to volunteer at the Pro Kids Golf Academy and teach golf to inner-city kids.

When the Academy voiced concern over putting a criminal offender in charge of children, the judge relented and set a new hearing to consider other alternatives. It's important to remember that turning away an unsuitable volunteer is much better than risking liability or jeopardizing your mission, as legal experts from Gammon & Grange Law Offices point out (npa@gandglaw.com).

New Resource for Nonprofit Advocacy

OMB Watch has announced the pilot launch of NPAction (www.npaction.org), an online resource for nonprofit advocacy. NPAction provides access to key resources and information about rules governing policy participation.

Donor Privacy Is Now Protected

The IRS, in response to concerns expressed by charities, has put steps in place to protect donors' privacy. The IRS (www.irs.gov) will exclude Schedule B (which identifies donors by name, address, and gift amount) from returns posted on the Internet. It will release copies of Schedule B only upon request and only after deleting any information that might identify a contributor.

The Science of Fundraising

Increase your odds of fundraising success.

BY BRAD BELL

Has this ever happened to you? You send a carefully-crafted letter to 20,000 people, expecting donations to pour in. Surprisingly, only 2% respond, and the average gift is just $15. The poor results may partly reflect a reliance on instinct rather than scientific conclusions.

Your Personal Beliefs May Be Faulty or Incomplete

Fundraising success reflects your knowledge about social psychology—why people give and what influences their behavior. Beliefs based on intuition and experience may be inaccurate.

Research findings from scientific studies sometimes contradict our own beliefs. For example, we may believe that photographs are always persuasive because they attract attention or elicit sympathy. However, research findings suggest that a picture isn't always worth a thousand words. In several studies, including a photo of a child didn't increase donations in door-to-door fundraising.

Also, research findings may reveal strategies that you haven't considered. For example, did you know that a door-to-door solicitor who simply adds the words "even a penny will help" can substantially increase the number of people donating?

How Science Can Help

Science can be a good friend to nonprofit organizations. The findings of scientific studies can provide ideas about what techniques are likely to increase donations, and what techniques may be ineffective or backfire.

There are two ways you gain more knowledge:

1. Learn about research findings on persuasion and donating behavior. If you don't want to take the time to peruse articles in scholarly journals, you can read briefer descriptions of findings in a magazine article or a comprehensive book.

2. Contract with an accomplished researcher who has a Ph.D. and expertise in social psychology. Highly skilled researchers can conduct experiments on the effectiveness of your fundraising efforts. They can use their vast knowledge of theory and research to select the most appropriate factors to vary in your fundraising letter or telephone script. You can discover what techniques are likely to yield the greatest revenue.

Here's a concrete example of how an experiment could be conducted:

- You want to know whether adding a 10-dollar amount to your pledge card will increase donations.
- To address this question, you create two pledge cards. The standard card has options of $20, $30, $50, $100, and "other." The new card has options of $10, $20, $30, $50, $100, and "other." Everything else is identical for the participants in the experiment.
- You (randomly) select a small group of people from your database to be participants. By using a small group of people, you have the opportunity to maximize revenue. Based on your research findings, you can use the best strategy with the entire group of people.
- Next, you randomly assign people in this sample to receive either the standard pledge card or the new pledge card. This is done so that you can be confident that other factors cannot explain the difference.
- After receiving the pledge cards back, you compare the amounts received for the two versions of the pledge card. You perform statistical analyses to find out how likely it is that the difference is due to chance alone. If the chance probability is sufficiently low (less than .05, for example), you can conclude that there is a real difference between the two pledge card versions.

Experiments can be much more complicated than described above. You can vary more than one thing in an experiment. Sometimes the influence of one factor depends on another factor. For example, having two door-to-door solicitors, as opposed to one, may only increase donations when the solicitors are high in status. Because of the complexity of experiments, researchers can be of great help in designing the experiments, analyzing the data, and interpreting the results.

Without the aid of science, some of your fundraising efforts may be like a roulette wheel. With the scientific approach, you can increase the odds of achieving your fundraising goals. ■

Brad Bell received his Ph.D. in psychology from the University of Washington. Descriptions of his research on the influence of trivial details on mock juror judgments have appeared in newspapers, scholarly journals, and textbooks. He is the author of The Social Psychology of Fundraising, *which describes research findings on donating behavior. You may reach him at bluefox@spiritone.com, www.bluefoxcom.bigstep.com.*

Reduce Your Risk of Liability

Worried about being sued as a board member? Here's what you need to know.

BY DONALD W. KRAMER

Nonprofit board members often worry about being sued. Although relatively few nonprofit board members have actually been sued for their conduct as board members—and far fewer have ultimately been found liable for damages—their concern about personal liability is real and pervasive.

Organizations that want to attract and keep good board members take pains to be sure that the board members' personal exposure is reduced. Changes in state and federal laws in the last decade and an increasing sophistication in purchasing insurance have given nonprofits a greater ability to provide protection for their board members and their organization.

Board members are properly concerned about two kinds of liability:

1. Protect Yourself against Personal Liability

Board members' first concern is about personal liability. They worry about being held liable for damage to a third party arising from their acts or omissions on behalf of the organization. This type of "tort" liability is much the same as they face in their daily activities, where they can be sued for negligent driving that causes an auto accident, for example.

Most nonprofit organizations are corporations, and one benefit of the corporate form is its limitation on personal liability. Normally, an individual isn't personally liable for a breach of contract or other improper conduct of the organization itself, or for that of other employees or agents of the corporation.

With permission from Board Builders, carol@boardbuilders.com

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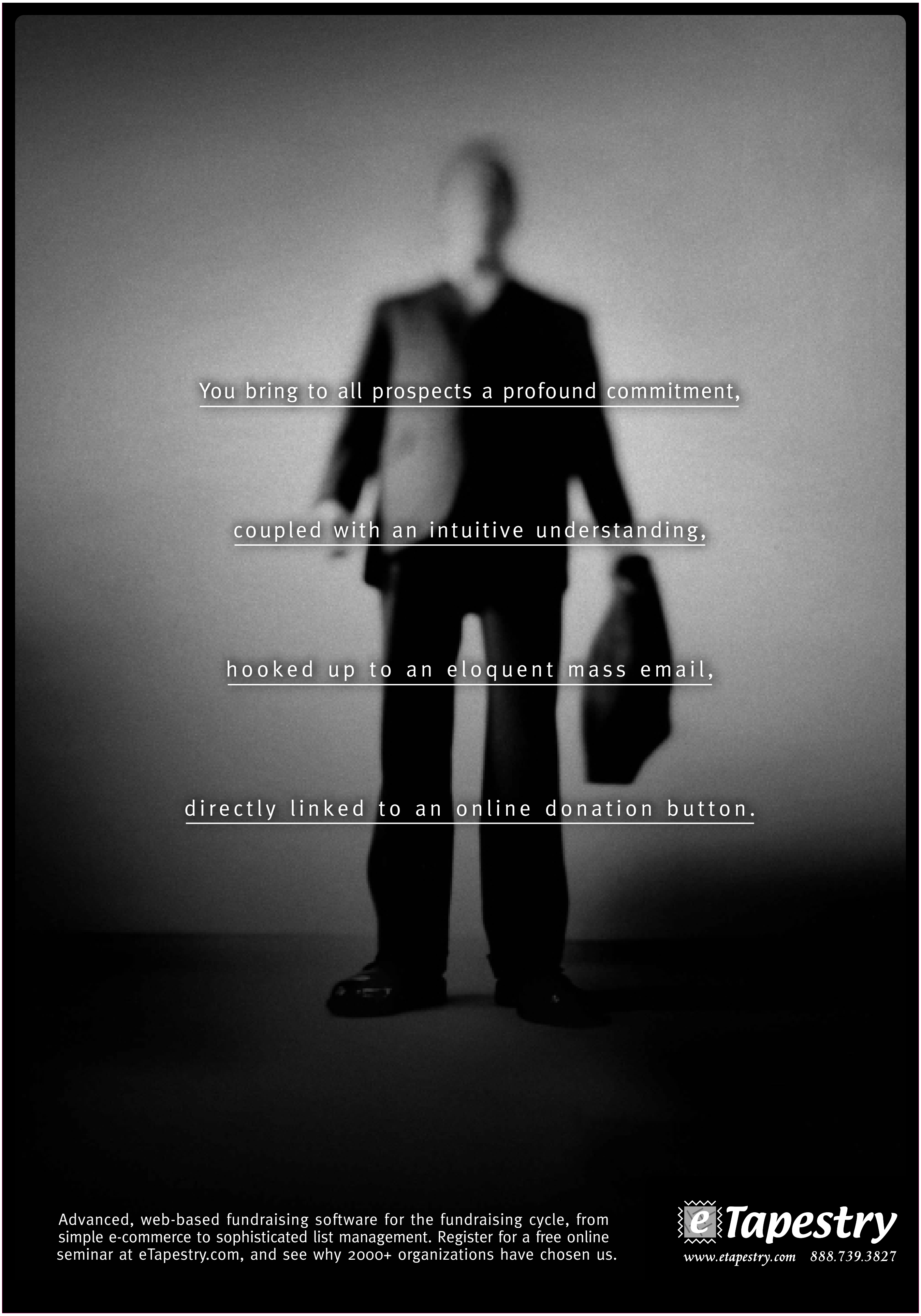
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The protection doesn't apply, however, to the personal conduct of the individual. Individuals are responsible for their own actions.

A board member of a nursing home wouldn't ordinarily be personally liable, for example, if a nurse's aide dropped a resident while trying to transfer the resident to a wheelchair. Although the home might be liable for the negligence of the aide, the board members wouldn't be personally liable for the aide's conduct.

If, however, the board had decided not to train the nurse's aides in how to make such transfers, knowing that the failure to train created a risk of harm for the residents, a member of the board who had agreed with that decision might be personally liable for the resident's injury.

The classic case of personal responsibility was illustrated by a suit involving a California condominium association in the mid-1980s. A resident complained that the outside lighting was inadequate to deter someone from breaking into her first-floor unit. The board decided not to increase the lighting. When the woman added her own lights, the board turned off her lights and the previously existing lights as well. An intruder broke into the woman's unit and assaulted her.

When the woman sued, the court said that the board members could be sued personally because they had affirmatively decided to shut off the lights and the injury was a foreseeable consequence of that decision.

(A board member who disagrees with a decision such as this should be sure that the minutes of the board meeting record the disagreement and the negative vote. A dissenting board member shouldn't be personally liable if the decision later proves to have been a bad one and the board members who made it are sued.)

Whether a board member is ultimately held personally liable for an injury in a case such as this may depend on the standard by which the board members' conduct is measured. Most board members of charities are volunteers and thus are protected by the Volunteer Protection Act. This 1997 federal law provides that volunteers for charities won't be personally liable for their acts or omissions if they are acting within the scope of their responsibility for the organization and the harm is "not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of others."

The federal law doesn't protect the volunteer from liability for injuries caused by the operation of a motor vehicle. Nor does it relieve the organization itself from liability for the negligent or improper acts of its volunteers.

The best protection against personal liability comes from liability insurance. Board members are almost always included as named insureds under general and professional liability policies maintained by nonprofits. Even if the board members haven't acted improperly, the insurance will provide their legal defense. If the cost of paying the defense lawyer is the personal responsibility of the board members, that amount alone, even without ultimate liability for damages, could be ruinous.

2. Protect against Breach of Fiduciary Duties

A second concern for board members is liability to the organization and its members for failing to perform their fiduciary duties. These duties include the following:

The duty of loyalty states that board members may not put their own interests ahead of the interests of the corporation. The most obvious areas of danger involve economic conflicts of interest. Some boards take the position that they will have no financial dealings with any member of the board. Most, however, aren't absolute so long as the conflict is disclosed before the transaction is entered into, the deal is fair to the corporation, and the arrangement is approved by the majority of disinterested members of the board.

Because so many charities depend on public support, the disclosure of improper private benefit to an insider can undermine the organization's credibility and cripple its programs. The question of impropriety, even when the conduct is disclosed and legal, can cause problems when portrayed in an unfavorable light by an investigating reporter. In extreme cases, insider scandals have hurt the credibility of the entire nonprofit sector.

Nonprofits should develop conflict policies that, at the least, require the disclosure of any potential conflict and the approval of any transaction by a disinterested majority of the board.

This issue is even more important now because Congress has given the IRS the power to impose an "excess benefits" tax under the "intermediate sanctions" provisions added to the Tax Code in 1996 (see Fram and Schmidt in "Resources.") The IRS may impose a tax on "disqualified people" who receive benefits from the charity in excess of the value of the goods or services they provide in return. "Disqualified people" include board members and anyone else in a position to exercise substantial influence over the affairs of the corporation.

The statute was passed primarily to curb unreasonable compensation for executives, but it is broad enough to cover any arrangement with a disqualified person. An excessive fee for a professional service from a board member, payment for a spouse to travel with a board member to the national convention, or any other economic advantage of any kind may be taxable.

The duty of care is usually spelled out in the state nonprofit corporation law. Although the exact wording may vary, this statute says that board members have a duty to act in good faith, in a manner they reasonably believe to be in the best interests of the organization, and with such care–including reasonable inquiry, skill, and diligence–as a person of ordinary prudence would use under similar circumstances.

Financing operations with withholding taxes is a huge personal risk.

Each of these phrases could be the subject of litigation, and the statute usually gives guidance on how to avoid such litigation. Many statutes provide, for example, that a board member may rely in good faith on information presented by officers or employees of the corporation, by counsel, public accountants or other professionals, and by committees of the board, so long as the board member reasonably believes them to be reliable and competent. Board members aren't acting in good faith if they rely on a report with knowledge that the reliance isn't warranted.

In effect, these statutes have created a slightly expanded "business judgment rule," which has traditionally protected board members from personal liability when their actions have been reasonable and in good faith. Courts have been reluctant to impose personal liability on board members merely because a decision turns out to have been a bad one, as long as they acted reasonably in making the decision in the first place.

(One area in which nonprofit board members can legitimately lose sleep at night is the organization's failure to pay federal—and sometimes state—payroll withholding taxes. A person "responsible" for those payments may be personally liable if they aren't paid. Court cases make clear that mere knowledge that these taxes aren't being paid may be enough to create personal liability. It is natural to want to pay the loyal staff and continue the program even when the money gets tight. But financing those operations with withholding taxes is a huge personal risk.)

Protect Yourself through Indemnification

What happens if a board member is sued for injury to a third party for an alleged breach of fiduciary duty? The board member looks to the corporation for "indemnification" against personal loss, for protection for the payment of attorneys' fees and other lawsuit costs, amounts for settlement, and, in many cases, even payment of adverse judgments.

Indemnification rights are largely created by state statutes. Although the language varies, most state laws include the following information:

- **Indemnification usually applies to investigations** or other "proceedings"—civil, criminal, and administrative—whether pending or "threatened" and isn't limited to actual litigation. It usually covers claims against board members in their capacity as representatives of the organization.

- **The corporation is usually *required* to indemnify a board member** who is "successful" in defending against a claim. The statutes permit voluntary indemnification in many other cases, such as when the board member settles the claim and, in certain situations, even when the board member is found liable.

- **Indemnification can cover settlements** and often fines and judgments.

- **To be entitled to indemnification, board members must have acted in good faith** and in a manner they reasonably believed to be in the interests of the corporation.

- **Indemnification is usually prohibited** if board members have been found liable to the corporation itself for breach of duty in a so-called "derivative suit" on behalf of the corporation. It makes no sense for the corporation to give board members money which they will just have to pay back to the corporation because of their improper conduct.

- **Most statutes say that no indemnification may be made** until a determination is met in each case in which the board member meets the qualification for indemnification. The determination must be made by a quorum of board members who are not involved in the proceeding or, if such a quorum is unavailable, by an independent attorney.

- **The corporation may advance board members' legal-defense costs** as long as they meet the qualifications for indemnification and promise to repay the money if it is ultimately determined that they aren't entitled to it.

To some extent, these obligations and rights are included in the law of the state in which the nonprofit is incorporated. Savvy board members, however, will want to see specific provisions granting them the maximum protection included either in the articles (or certificate) of incorporation or in the organization's bylaws. These documents act as a form of contract between the corporation and the board member and provide greater assurance of protection.

Be Sure You're Protected through Insurance

How does a nonprofit back up its promise to indemnify? Unless it has substantial assets of its own, the answer is insurance. General and professional liability insurance usually covers bodily injury or property damage to other people. Directors' and officers' (D & O) insurance provides protection against claims of breach of fiduciary duty and other wrongful acts.

(Board members may be covered under plans maintained by their employers or under "umbrella" policies maintained for excess coverage under their personal homeowners or automobile policies. The nonprofit board, however, should do what it can to provide adequate protection through the organization.)

Here are some things you should know about D & O insurance:

D & O insurance was traditionally written to provide two areas of coverage: (1) It covered the individual board members and officers, and (2) subject to certain exclusions, it would pay their litigation defense costs and settlements if they were sued. It also reimbursed the corporation to the extent that the corporation advanced such payments.

Traditionally missing from the coverage was protection for the organization itself for the wrongful acts of its representatives. With the expansion of volunteer protection acts and director liability laws, it is possible, even likely, that an individual would not be personally liable for an action but that the corporation would be liable for the results of the action.

The president of the board might not be personally liable, for example, for a discriminatory termination of the executive director if the president's actions weren't willful misconduct or recklessness. But the corporation could still be liable for the wrongful conduct of its officer.

Most modern policies now cover the organization itself. Be sure your organization's policy includes such coverage.

Be careful about exclusions in the policy. Insurance companies don't want to cover the costs of a grudge match when one faction of the board sues another faction over a matter of "principle." Most policies, therefore, contain some form of "insured versus insured" exclusion, denying coverage when one person who is named as an insured person sues someone who is also a named insured.

Most nonprofits want to provide protection for as broad a group as possible, including present, former, and future board members, committee members, and other volunteers. But these individuals are the most likely to start a suit because they're the ones who care most about the organization. Without proper tailoring of the exclusion language, protection can be undercut by expansive coverage of individuals.

Nonprofits must also be aware of attempts to exclude coverage of employment disputes, which create the largest single category of claims under D & O policies. Make sure your policy includes such coverage, including protection against claims of discrimination, wrongful termination, and other charges by employees (see Mahoney and Sills in "Resources").

Be sure your policy advances the costs of legal defense before the final outcome of the litigation or proceeding. With the expense of litigation today, it may be impossible for an individual to carry the burden of defense costs to the conclusion of the case.

Make certain that non-monetary claims are covered by the policy. If someone sues for access to financial books and records, for example, the policy should cover the defense of that claim.

Work with a knowledgeable broker who can advise your organization on the amount and scope of your coverage. D & O insurance has become more available in recent years and can usually be obtained at reasonable rates. If an experienced insurance broker isn't available locally, a national or state association of similar nonprofits can help you find someone.

Insurance is invoked only when there is a problem. If the coverage isn't right, it's too late to change your policy after the claim is filed.

Board Risk Management

Beyond insurance, how do board members protect themselves from potential liability? By running a strong program, showing up at meetings, paying attention, acting in good faith, and using their best judgment in pursuit of the organization's mission.

The object of serving on a board isn't to avoid liability. The object is to advance the organization's mission and make the world a better place.

That requires proactive measures, not defensive tactics. The likelihood of doing the job is enhanced with a diverse board of individuals who aren't afraid to ask "dumb questions," who actively present different points of view, who remember the reason they are there, and who are willing to act. ■

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These resources are available through the Society's Resource Center, www.snpo.org.

Don Kramer (Montgomery, McCracken, Walker & Rhoads, LLP, 123 S. Broad Street, Philadelphia, Pennsylvania 19109, 215-772-7277, dkramer@mmwr.com) is the editor and publisher of Don Kramer's Nonprofit Issues *(for a free copy, call 888-NP-Issue or request through the Web site at www.nonprofitissues.com). He is the author of a chapter in* Secrets of Successful Boards *(edited by Carol Weisman, carol@boardbuilders.com), from which this article is excerpted.*

Don't Be Sued for Negligent Hiring

Here are ways to avoid a painful lawsuit.

BY MINDIE LE, THANH BAO NGUYEN, & BRIAN H. KLEINER

Negligent-hiring lawsuits are mushrooming in the nonprofit sector. Yet few nonprofits understand how to guard against such suits. As a nonprofit employer, here's what you need to know about the negligent-hiring law:

• **You are guilty of negligent hiring if you don't use reasonable care** in selecting an applicant in light of the risk created by the position to be filled. Thus, you must screen individuals carefully before you hire them, especially if the job requires contact with others. And if the contact could harm a third party (such as the job of counselor, which calls for regular, close contact with emotionally fragile people), you must hire with even greater care.

• **You can be held liable** for the wrongful actions of your employees even if they perform those actions outside the scope of their employment.

• **Laws against negligent hiring apply** to volunteer as well as paid positions. The laws also extend to independent contractors and part-time workers.

• **Plaintiffs have sought recovery** for damages stemming from murder, assault, theft, and sexual harassment, among other things.

• **In a number of cases, courts have awarded substantial monetary damages** against employers who didn't conduct proper pre-hire investigations. Employers have had to pay damages for injuries as well as punitive damages.

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What Questions Will the Court Ask?

Courts ask a number of questions when deciding if an employer has made a reasonable inquiry into the applicant's background and qualifications:

• **Did the employer** know–or should the employer have known–of the employee's unfitness for the position?

• **Could the risk** have been discovered through a reference or background check?

• **What was the cost** of conducting a background check?

• **Was pertinent information** readily available? Were sources such as previous employment records sufficient to justify a determination of fitness?

• **Was the risk greater** because of the type of position being filled? What degree of trustworthiness was required for the position?

Be sure to document the scope and depth of your investigation.

• **Did the employee cause injury** to a third party, such as a co-worker, client, or visitor?

What Steps Will Guard Against Lawsuits?

While there is no foolproof way to ensure against hiring an unfit or dangerous person, you can reduce your exposure to negligent-hiring claims by taking these steps:

1. Conduct a comprehensive pre-employment check. Obtain as many personal references as possible, and check them all. Don't hire an applicant before all inquiries are completed.

2. Tailor your investigation to the job sought. When hiring employees to work with vulnerable people, you have a greater duty to conduct a more thorough background check. If you are hiring someone to operate a day-care center, for example, you must conduct an extensive inquiry, including a check of the applicant's criminal background.

3. Document the scope and depth of your investigation. Note even those reference requests for which you obtain no information.

4. If you obtain adverse information about an applicant from a former employer, try to confirm it by asking the job candidate, "What do you think your former employer might say about you?"

5. Carefully examine employment applications. Interview applicants thoroughly. Make a careful record of what you ask and how each question is answered.

6. Ask the job applicant to explain any gaps in employment history or between school and jobs.

7. If you uncover suspicious factors such as short residencies, gaps in employment, or admissions of criminal convictions, you must make further inquiries into the applicant's background, including a criminal-record check. The failure to do so can result in liability if the individual commits criminal acts after being hired.

8. If you're served with a negligent-hiring lawsuit, call your lawyer immediately. Time is critical, because you have only a certain number of days to file an answer to the lawsuit. The number of days will vary depending on where the suit was filed, but you could have as little as two weeks to respond.

Your reference checks will likely yield more information than in the past because of new laws protecting employers who share information about ex-workers. In the past few years, 26 states have enacted such laws. With these laws in place, you may find former employers more forthcoming about potential troublemakers than they used to be. (The impetus for change stems from a Florida case in which Allstate Insurance fired a man for bringing guns to work but didn't tell Fireman's Fund Insurance Company when they checked his references. Fireman's Fund hired the man, who later shot five co-workers, killing three of them. Survivors and victims' families filed lawsuits against both companies for negligent hiring and negligent referral.)

New laws protect employers who share information about ex-workers.

Which Background Searches Should You Conduct?

In addition to a thorough interview and check of a candidate's application and references, a background search is often a good idea. Here are some useful searches you can perform:

• **A consumer-credit inquiry** shows the applicant's debt load, payment history, and public-record information of a civil nature (liens, judgments, bankruptcies). Used properly, this information will help you build a profile of the applicant's reliability and sense of responsibility. Release of this information is covered in the Fair Credit Reporting Act (Public Law 91-508) under Section 604. Law requires you to have a signed release from the person whose record you're seeking.

• **A criminal-convictions inquiry** is a key part of offsetting the liabilities of negligent hiring. Criminal searches may be conducted by phone, computer, or fax. Such an inquiry is crucial when hiring anyone who will work with money, drugs, valuable inventory, or vulnerable populations (such as people who are elderly or have disabilities) or who will be working unsupervised in clients' homes. Criminal records are regulated by state law and can be accessed with or without a signed release as directed by the individual states. Currently, 20 states have given employers authorization to access their central repository, thus allowing a full state-wide search of criminal records. If your state isn't one of these 20, you will have to conduct this search on a county-by-county basis.

• **A motor-vehicles inquiry** is critical when hiring anyone who will drive vehicles for the organization. Driving records, which are regulated by state law, can reveal an important pattern of reckless behavior. You can obtain this information via computer from the State Department of Motor Vehicles. You don't need a release to do so.

While these searches take time—usually several days—they are well worthwhile if you're hiring someone for a sensitive position. A bad hire doesn't just jeopardize your organization's safety. If it leads to a negligent-hiring lawsuit, your organization's very survival may be at risk. ■

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These resources are available from the Society's Resource Center, www.snpo.org.

Mindie Le and Thanh Bao Nguyen are researchers specializing in negligent hiring. Brian H. Kleiner, Ph.D., is a professor of human resource management in the School of Business Administration and Economics, California State University, Fullerton, California 92834.

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This Directory is made up of listing information supplied and paid for by the service/product providers. It is made up of two sections. The first lists the providers alphabetically by organization. The second lists the providers alphabetically by the products and services they supply. If you would like your organization listed in this Directory, contact us at 734-451-3582, info@snpo.org. Listings are $395 and appear in the magazine (6 issues/1 year) and on our web site for one year.

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BEFORE YOU ACCEPT THAT DONTION, TRY THESE 10 TIPS.

It's hard to turn down a free computer. But if you're not careful, such a donation can hurt more than help. It can cost hundreds of dollars to bring a computer up to current standards. Computers that turn out to be unusable have to be recycled for a fee, which further stretches your tight budget. Here are rules to follow when acquiring a donated computer:

1. Before you consider accepting a donation, understand what kind of computer you need. A donated computer is useful only if it fits into your computer system or network and can run the programs or applications you need. For office use, it's best to accept nothing older than Pentium 300s. In training labs, however, older computers may be fine.

2. Don't accept non-working equipment, unless you're sure you can repair it, or you want to use it in a training program geared towards fixing computers.

3. If you're unsure if a donated computer will be useful, refer donors to a refurbisher or recycler. Refurbishers usually handle newer equipment that they fix up for re-use. Recyclers accept older equipment, take out useful parts, and break down the rest for materials recovery. If you can't accept a computer equipment donation, provide people with alternatives to dispose of it properly. Find listings at TechSoup, http://www.techsoup.org/recycle.

4. Whenever possible, seek donations from a reputable refurbisher. Rather than soliciting or accepting donations directly from individuals or businesses, it is often wise to apply to refurbishers for older equipment. This gives you a better chance of getting good equipment in working order. Share the Technology's online database (http://www.sharetechnology.org) matches donors with recipients by locale. Find other listings of refurbishers at http://www.techsoup.org/recycle.

5. If you accept a donation, try to get the software that goes with the donated computer. The most important software to have is the operating system. A four-year- old computer runs best with four-year-old software, and it often runs much more slowly on new software. If you can't get software donated, then try:

- CompuMentor's low-cost software, http://www.compumentor.org/software
- Gifts In Kind International, http://www.GiftsInKind.org
- Consistent Computer Bargains, http://www.1computerbargains.com.

6. Ask for the original media (the disks or CD) that came with the PC when it was purchased. These disks contain the drivers necessary to make the computer run properly and manuals needed for fixing the machine.

7. Be sure the operating system is intact. It is required by law to keep the operating system and current license loaded on a donated computer. Making sure these are included will help ensure the legal transfer of your new computer.

8. Remember the accessories. Don't forget about the keyboard, monitor, mouse, printer, modem, and other accessories that you'll need for the donated PC. Ask for any packaged software that donors might be willing to part with. An office suite such as MS Office or Lotus SmartSuite is the most useful software to have.

9. If you accept a donated computer, and your organization is a 501(c)(3) nonprofit, you can offer a tax receipt. The IRS doesn't permit nonprofits to provide a valuation of the donated equipment. You can describe the donation and declare that it helps your organization, but you can't assign a dollar value to it. Find sample wording at http://www.techsoup.org/recycle.

10. Delete personal information. If the donor didn't do this ahead of time, delete their Internet cookies, e-mail, personal applications, temporary Internet files, and any other information. ■

CompuMentor (www.compumentor.org), a provider of technology assistance to nonprofits, is working with Microsoft Corporation (www.microsoft.com) to help consumers donate or recycle computers to benefit both society and the environment. For a listing of computer refurbishing resources, see TechSoup.org, CompuMentor's national nonprofit technology Web site.

STILL TOGETHER AFTER ALL THESE YEARS:

A Chat about Changes and Trends in the Nonprofit Sector

Nonprofit World **turns 20 this year. How have things changed, and what lessons have we learned?**

Twenty years ago, in May of 1983, Jill Muehrcke and Katie Burnham launched the first edition of what would become one of the most trusted publications for nonprofit leaders. Today, Jill and Katie (now Katie Burnham Laverty) are still together. Jill continues to be the editor of *Nonprofit World*, and Katie is the president of the Society for Nonprofit Organizations and the Learning Institute.

To celebrate *Nonprofit World*'s 20th anniversary, Jill and Katie asked other nonprofit leaders for their insights on these questions:

- **What do you view as the greatest management change** in the nonprofit sector over the past 20 years?
- **What are the most significant trends** that will affect the management of nonprofit organizations in the next five years?

Here are their answers.

Peter Brinckerhoff (president, Corporate Alternatives, Incorporated, Springfield, Illinois): First of all, congratulations to *Nonprofit World* on making it to 20 years! Not many publications can say that.

Nonprofit managers have come so far in 20 years! Certainly the rise of a professional nonprofit manager—and the belief that nonprofits are mission-based businesses—has been key. But that development has been enabled by vast increases in resources for nonprofit education. Twenty years ago, only three institutions (Yale, University of San Francisco, and Case Western) provided education for nonprofit managers. Just two management support organizations (the Support Center and Corporate Alternatives) furnished nonprofit training. Now, certificate, undergraduate, and graduate degrees for nonprofit managers abound. A huge number of support centers, as well as hundreds of books, workbooks, and tapes, offer guidance on issues facing nonprofits.

When I was writing *Mission-Based Management* in 1993, a lit search with the term "nonprofit management" returned three titles. Try such a search on Amazon.com now, and you get—no exaggeration, I just did this—759 hits! That's incredible progress.

The biggest trend is the funding situation. Everywhere I go, people are retrenching. And I see no end to it. Even after the economy rebounds, people will be more hesitant to fund and expand, since we all were burned by the go-go '90s. State budget deficits have resulted in huge spending cuts throughout the sector, which puts pressure on development staff to produce—but in an increasingly competitive environment. Foundations have more requests for funding but less to give.

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Thus, nonprofits need to think through what their core services are, match these up with their core competencies, and develop a plan to, in many cases, shrink in size but grow in terms of quality. Till the end of this decade, the key for nonprofits will be to narrow their focus.

Till the end of this decade, the key for nonprofits will be to narrow their focus.

Thomas A. McLaughlin (nonprofit management consultant, Grant Thornton, Boston, Massachusetts): The increase in nonprofits has driven most of the management changes, such as more competition for funding, more nonprofit management programs, and the media's rising interest in and understanding of the sector. The 1990s' peace and prosperity after the fall of the Soviet Union allowed us to turn our attention more toward domestic affairs, which helped legitimize the role of the nonprofit sector, as did government's retreat from certain areas. This has changed since September 11, of course, but the sector's higher level of recognition and engagement in the larger economy has already been more institutionalized and won't slip back very much.

I see a number of significant trends:

- **Government will continue to pull back** in health and human services, creating more of a vacuum that nonprofits will be expected to fill.
- **Nonprofit management will become far more professionalized.** There are serious dollars at stake now. Good intentions are no longer enough. Now those good intentions have to be combined with good management ability.
- **More consolidations will take place,** especially in brand name groups.
- **Nonprofits will become more entrepreneurial.** The term "entrepreneurial nonprofit" will stop being an oxymoron and turn into a redundancy.

Carol Weisman (president, Board Builders, Inc., St. Louis, Missouri): The competition for funds has gone through the roof. Between the increased number of nonprofits, the consolidation of corporations, and the skepticism of the American public, it is getting tougher and tougher to keep the doors open.

At the same time, many exciting changes have taken place in the boardroom. Twenty years ago, the primary difference between a board member and a volunteer was gender. Today we have much greater diversity. We have a former President who prefers to swing a hammer than a gavel for Habitat for Humanity, and we have welfare moms who are serving at the board level.

I believe the next five years will be a period of consolidation. Many nonprofits will either merge or go out of business. We will lose some groups that deliver excellent service but that don't understand marketing and fundraising, and we will gain some powerful alliances.

Jerr Boschee (founder and executive director of The Institute for Social Entrepreneurs, Eden Prairie, Minnesota): Over the past 20 years, nonprofit board members and executives have come to realize they can no longer depend solely on charitable contributions and public-sector subsidies to finance their operations. By the late 1990s, an increasing number of nonprofits had abandoned this "dependency" model in favor of either a "sustainability" model that adds earned income to the mix or a "self-sufficiency" model that relies on earned income alone.

Trends that will affect the management of nonprofit organizations in the next five years include the following:

- **Dozens of colleges and universities** are in the process of launching or expanding nonprofit management and social-enterprise courses and degree programs.
- **Adoption of earned-income strategies** is becoming an important part of strategic planning for more and more nonprofits.
- **An increasing number of donors** are embracing the principles of venture philanthropy.

Susan J. Ellis (president, Energize, Inc., Philadelphia, Pennsylvania): Twenty years—my, my. Congratulations on *Nonprofit World*'s anniversary!

As for the greatest management change, it's a tie between adoption of for-profit practices and the influence of the Internet. While I agree that nonprofits should be well-managed, accountable, and concerned about image and marketing, I'm troubled that nonprofits haven't sufficiently valued what ought to make them different from for-profit businesses. For example:

- **When executive directors change their titles to "president,"** leaving the top volunteer official to be "chair of the board," the public is confused as to which is the top figure and which is paid a salary.
- **Calling clients "customers" and "consumers"** may lead to more considered interaction in some ways, but it also reduces those served to a transaction rather than a relationship.
- **When nonprofits focus on the financial bottom line** as the primary measure of accountability, they may neglect to work on ways to measure social impact. Einstein said: "Not everything that counts can be counted. And not everything that can be counted, counts." He was right.

The Internet—or, more specifically, the World Wide Web—has profoundly and irrevocably changed the way the world communicates. Though slow to jump on board (the cost of hardware and software being key obstacles), nonprofits have discovered the amazing power of the Web to promote their cause, reach new donors and volunteers, keep in touch with their supporters, generate action on legislative issues, and control their publicity "message." Quite a tool! Now if only more executive directors could type….

> "Not everything that counts can be counted. And not everything that can be counted, counts."

Here are what I consider the most significant trends that will affect nonprofits in the next five years:

- **The ever-evolving technology of the Internet,** especially for distance learning. The challenge will be keeping up, both with equipment and trained staff.
- **Possible new acts of terrorism** in our front yards as a likely response to our "war on terrorism" elsewhere. Who could have predicted the demands on nonprofits in and out of NYC to respond to the 9/11 disaster? No one is ready for such horrific events to happen in their city.
- **Mergers and for-profit enterprises.** Some local organizations ought to merge, others will be forced into it due to funding pressures. Stay tuned for the ultimate impact of private businesses running a wide range of social services, from nursing homes to public schools.

Richard L. Jones (president, Metropolitan Family Services, Chicago, Illinois): The greatest change over the past 20 years is the increasing complexity of nonprofit management. A greater focus on accountability, financial oversight, and collaboration have created sophisticated challenges and opportunities. Processes such as unit cost analysis and benchmarking have become commonplace. Nonprofits are expected to operate more like business enterprises. This trend has far-reaching implications, including a need for nonprofits to recruit staff with strong financial and analytical skills.

I'd like to comment on three trends nonprofits face over the next five years:

The growing number of Latino and other minority populations served by nonprofits will compel recruitment of bilingual and bicultural staff. Development of community-based service systems will be one of the best ways to help families obtain services.

Funding, particularly of human services, is becoming a complex blend of government contracts, private fundraising, fee-based activities, and entrepreneurship. Today's fiscal crisis will extend into the foreseeable future. The notion of offering a safety net of services to communities is disappearing in a resource-constrained environment. Corporate foundations are limiting funding to nonprofit organizations that can demonstrate a link between the nonprofit and corporate missions.

Nonprofit organizations are expected to demonstrate outcomes from support garnered from both the public and private sectors. The demand for outcome data will increase and be a major factor in distributing financial support among nonprofits.

The convergence of declining public support and changes in traditional funding will place tremendous pressure on nonprofits over the next five years. Nonprofit leaders need to answer several important questions:

- **What are the "base case" assumptions** for funding trends for the next five years?
- **What will be the impact of these trends** on the programs we offer?
- **What alternative funding strategies** can we pursue in the future?

Clearly, change is in the air. Building endowments, pursuing social entrepreneurship, creating strategic alliances with other organizations, and offering a more restricted range of programs are among strategies nonprofits will need to develop. I am confident that as a sector we will re-invent ourselves, rise to the occasion, and become stronger organizations continuing our important role in society.

Jill Muehrcke, Editor, *Nonprofit World:* If we distill these comments from the experts, we can come up with a to-do list for nonprofits, based on what we've learned and what we can predict. Putting that list in loose priority order, expanding on our experts' insights and adding a few concrete ideas, here are some suggested ways to prepare for the future:

1. Narrow your focus, and concentrate on what you do best. Our experts agree that, with increased competition and huge spending cuts throughout the sector, nonprofits need to retrench, economize, and offer a more restricted range of programs.

2. Find new, creative ways to raise funds. Charge fees for your services. Start a business based on your mission. Don't rely on just one or two funding sources. Build long-term relationships with donors. Seek funding only from those foundations and corporations whose missions and goals match those of your organization. Become more entrepreneurial. Keep up on funding trends.

3. Adopt sound business practices, and recruit staff with financial, analytical, and marketing skills. Learn to communicate with for-profits and speak their language. Use their tools, but don't become them. Important as it is to be businesslike, it's just as crucial to cherish the culture that makes the nonprofit sector so special.

4. Draw on the wealth of resources available for nonprofit managers—books, tapes, educational programs, support centers, and training. Through distance learning, you and your staff can acquire skills and earn degrees without leaving your office.

How Our Work Has Changed

Over the past 20 years, we at the Society and *Nonprofit World* have had to change our skills and approaches to accomplish our mission of knowledge sharing. Here are some of the activities that have been transformed since we began in 1983:

	1983	2003
Article development & editing	Typewriter (type, use whiteout, retype!)	Edit electronically
Magazine layout	Paste-up boards	Digital pdf files
Reprints of articles	Xerox and mail	CD-ROM, on-line index of articles
Cover photos	Negatives	Digital jpeg files
Information gathering	Research at the library	Internet search
Global networking	Slow, expensive mailings	Web site (www.snpo.org) provided
Management of membership database	Dedicated word-processor	Multi-purpose computer & software
Funding opportunities for members	Paper newsletter, mailed to members	Electronic newsletter, transmitted instantly to members
Educational programs	Face-to-face instruction	On-line, streaming video

Yet, through all these changes, we have held true to our original credo—Advancement through Sharing. And we continue to serve our original purpose—to bring together those who serve the nonprofit sector in order to build a strong network of professionals throughout the country.

5. Form strategic alliances. Consider merging or consolidating with another group. Develop community-based service systems. Be constantly on the look-out for opportunities to collaborate.

6. Be accountable, ethical, financially aboveboard, and able to demonstrate outcomes. To combat public skepticism, your motto should be: "We are honest and open and admit our mistakes." In today's world, you can't hide anything for long. Call attention to wrongdoing wherever you see it. The perception of misconduct can hurt your organization and the entire nonprofit sector as much as misconduct itself.

7. Use the Internet to build lasting, meaningful relationships with your constituents and to reach out to people all over the world. Create an interactive, personalized Web site. Do all you can to make it the "go-to" site in your arena, with links to everything people need.

8. Make careful plans, including what you will do in case of a disaster. Cultivate media contacts so that you'll have someone on your side when crisis hits. Create a fact sheet for the media, and funnel all information through one spokesperson in your organization. Identify areas in which you could be vulnerable, and develop a plan to counteract potential problems. Focus on communication, prevention, and preparation.

9. Cultivate diversity of your staff and board. Offer training to help people bridge cultures. Knowledge is the key to managing in a multicultural world.

10. Take advantage of the media's rising interest in the nonprofit sector. Make experts available for feature stories about emerging trends. Seek cosponsorships with media organizations for events and projects. Develop human-interest stories. Reporters are especially interested in writing about specific volunteers and projects. Only through strategic public relations can nonprofits regain the public's trust. ■

Learn More about Future Trends

Check out these past *Nonprofit World* articles, which focus on coming trends and how to get ready, available at www.snpo.org:

- **Pool Resources for Success**, Vol. 16, No. 5
- **13 Ways to Cut Costs**, Vol. 12, No. 4
- **High-End Strategic Alliances as Fundraising Opportunities**, Vol. 19, No. 5
- **Seven Rules of Successful Collaboration**, Vol. 18, No. 2
- **Managers Must Become Multicultural**, Vol. 20, No. 6
- **Using Training Strategically**, Vol. 14, No. 4
- **Nonprofits Going Global**, Vol. 13, No. 6
- **The 10 Media Trends that Will Drive Your Future**, Vol. 17, No. 2
- **Why You Need to Be More Entrepreneurial**, Vol. 19, No. 6
- **Internet Savvy Nonprofits**, Vol. 20, No. 1
- **A New View of Marketing**, Vol. 19, No. 5
- **Beyond Diversity**, Vol. 18, No. 2
- **Opportunity's Knocking—Are You Ready?**, Vol. 16, No. 5
- **How to Keep the Money You Earn**, Vol. 17, No. 4.

IN BED WITH THE ENEMY:

How to Partner with Your Competition

Follow these "marriage" pointers to consummate the perfect relationship.

BY ED RIGSBEE

Today's corporations know that strategic alliances lead to powerful synergies. Nonprofit organizations can gain the same advantages if they take a strategic approach to building relationships. Here are tips to successful alliances for your organization:

Find Your Perfect Mate.

To begin, you must seek the right partner. How do you find organizations with whom you're likely to be successful?

First, talk to your suppliers and funders. They have a great deal of experience with organizations like yours. They also have a handle on each organization's integrity or lack thereof. Also ask your local chamber of commerce, United Way, college or university, or community foundation for suggestions.

Maybe your alliance will simply be a buying consortium. Perhaps it will be an alliance to serve the same clients or to share a pool of employees. Whatever you decide, the key is to find a partner with the same core values as your organization.

Plan the Courtship.

Next, it's courting time. Your goal is to help your future partner gain emotional ownership in the partnership. Without such ownership, any commitment will rest on a shaky foundation.

Sensitivity and understanding are crucial. Your potential partner may be experiencing the getting-married jitters, fearing loss of control. Talk about the up and down sides of your intended alliance. Clarify how you might deal with the relationship if things don't work out. Plan an exit strategy. Getting fears and issues on the table rather than hiding them will serve everyone.

Discuss Your Life Together.

Ask and answer all the big and small questions that come up in any new relationship:

• **Where are you going to live?** In other words, how will you market yourselves, individually and together?

• **What will you keep separate,** and what will become common property? Might you share warehousing facilities, delivery services, or employees to overcome personnel challenges?

• **Who's going to do the chores?** Too often this is where unrealistic expectations rear themselves. Be clear about who will do what, and commit it to writing. The palest ink is better than the most powerful memory. It's too easy to forget your commitments in six months, a year, or a decade.

• **How will you track** new information to ascertain the value gained in the alliance?

• **How will you communicate** with each other to make sure you're both happy? Regular value updates on the alliance relationship will be helpful. These updates should consist of expectations (met and missed) and profitability targets. This information will help you decide whether to upgrade, downgrade, or maintain the relationship as is.

Tie the Knot.

Create a partnering agreement, detailing each partner's responsibilities. This document will be the guiding light for your alliance relationship. When in doubt, you will refer to it.

Learn to Survive under the Sheets.

Once the alliance is in place, you need to become successful cohabitants. While you're each responsible for your own success, you now must consider how your behavior will affect your partner. Be aware of how your actions may force your partners to change their plans. Confer before you act. After all, you are in bed together. To get space, you must give it first.

Make regular relationship-bank deposits of physical and emotional energy. Always meet your partner more than half way. When you give more than half, a robust synergy follows. So much more is possible by working in concert.

To deal with the challenges of the relationship, you must get past the "denial syndrome." Don't fall into the trap of ignoring rather than confronting problems. A confrontation needn't be a knock-down, drag-out affair, especially if you selected your partner well. Open communication is the key in dealing with missing covers, or anything else. Remember, if you steal your partners' sheets today, they might take yours when you are cold and in need.

Call the Marriage Counselor.

When relationship roadblocks occur, it may be necessary to seek third-party counsel for mediation. In this situation, authenticity and openness are vital. Since you took the time to choose well, it's worth the time, energy, and expense to rebuild the partnering bridge.

Mediation is becoming a popular way to resolve conflict, and it will be easier than you might think to find a qualified mediator. In this process of reconciliation, focus on the reasons for selecting your partner and the benefits you hoped to receive rather than the anger or hurt feelings.

Call the Divorce Lawyer.

Oh no, divorce! You truly tried but it didn't work out. For a myriad of reasons, this sometimes happens. No reason to feel like a failure or declare that you'll never again be in a relationship. In dealing with separation issues, be the bigger person and again meet your partner more than half way. Otherwise the anger will fester, and you'll become immobilized.

If there is "community property," dispose of it fairly, or offer to buy out your partner. Either work it out, or take court-ordered pennies on the dollar. Only outsiders win in this situation.

Relish the Journey.

Enjoying the journey with your partner and looking for additional opportunities are what make all the work worth the energy. If you've built your alliance correctly, there will be many rewards along the way. If you must divorce, at least you've learned a lot. Use those new insights as you start building your next alliance. ■

Resources

Campbell, David, "High-End Strategic Alliances as Fundraising Opportunities," *Nonprofit World*, Vol. 19, No. 5.

Campbell, David, *Strategic Alliances Videotape*.

Sturm, Paul, "Seven Rules of Successful Collaboration," *Nonprofit World*, Vol. 18, No. 2.

Tietler, Maxine, "Alliances Are Not Mergers: What Problems Should You Expect?", *Nonprofit World*, Vol. 17, No. 2.

These resources are available from the Society's Resource Center, www.snpo.org.

Ed Rigsbee is a professional speaker and president of Rigsbee Enterprises, Inc. (P.O. Box 6425-PC, Westlake Village, California 91359, 800-839-1520, EdRigsbee@aol.com, www.rigsbee.com), a strategic management and marketing consulting firm. He is the author of Developing Strategic Alliances, The Art of Partnering, *and* Partnership–How to Profit from the Partnering Trend, *available from Amazon.com.*

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Untangling the Audit Confusion

Your audit will go more smoothly if you're familiar with these steps.

BY FRANK J. GRIPPO AND JOEL G. SIEGEL

Nonprofit managers are often confused about the role of auditors–and about their own role in an audit. Auditors, for their part, don't always understand the special challenges of auditing a nonprofit organization. To help sort out this confusion, here is a rundown of steps that auditors and nonprofits should take:

Step 1: Understand the audit's purpose.

The role of auditors is to give an opinion on the fairness (accuracy and validity) of the financial statements as a whole (not on individual accounts). That is, they determine whether the financial statements are in conformity with generally accepted accounting principles (GAAP).

Auditors do their work in accordance with generally accepted auditing standards (GAAS). They aren't concerned with the financial quality of the organization, the business acumen of management, or the business decisions that management made. Rather, the auditors' primary concern is with financial presentation.

Nonprofit professionals should be familiar with three publications:

***Accounting for Contributions Received and Contributions Made,* Statement of Financial Accounting Standards (SFAS) No. 116,** issued by the Financial Accounting Standards Board (FASB), requires nonprofits to distinguish between contributions received with permanent restrictions, temporary restrictions, and no restrictions. It also stipulates that promises to give with payments in the future (pledges) must be reported at fair value.

***Financial Statements of Nonprofit Organizations,* SFAS No. 117**, establishes standards for preparing general-purpose financial statements for nonprofits. A statement of financial position, a statement of activities, and a statement of cash flows are required. In addition, voluntary health and welfare organizations must provide a statement of functional expenses.

Audits of Certain Nonprofit Organizations is issued by the American Institute of Certified Public Accountants (AICPA). Its purpose is to enhance understanding of accounting issues. It provides guidance for accountants, auditors, and nonprofit professionals about performing audits.

Step 2: Understand the nonprofit environment.

As stated in Statement on Auditing Standards (SAS) No. 22, *Planning and Supervision,* "auditors should obtain a level of understanding about the nonprofit organization that will allow them to understand the events, transactions, and practices that, in the opinion of the auditors, will have a significant effect on the financial statements including knowledge about matters that relate to the nature of the nonprofit organization, operating characteristics, and accounting practices common to the nonprofit organization."

> *Be prepared to give auditors the documents they need.*

There are a number of differences between nonprofit organizations and profit-making enterprises that require the modification of audit procedures. These include: organizational goals, source and use of resources, measures of performance, accounting and management controls, personnel issues, business and activity constraints, funding sources, legal requirements, political and economic issues, and operating characteristics such as sources of revenues (for example, contributions versus service fees).

In addition, the following complexities of nonprofit organizations affect the way auditors will check their financial statements:

- audit restrictions imposed by funding sources, such as eligibility requirements
- risks associated with the use of volunteers, in-kind services, and nonprofit boards
- problems associated with comparing budgets to actual results

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- the difficulty of accounting for multiple programs, grants, or contracts with year-ends different from the nonprofit's year-end
- risks caused by complex chart of accounts and coding systems
- tax considerations resulting from unrelated business income
- specific audit requirements imposed by the funding source that go beyond generally accepted accounting principles (GAAP) for nonprofit organizations.

Step 3: Make a judgment about materiality.

Auditors' next step is to review the financials and determine which items are material. Material transactions are those that, in the auditors' opinion, have an impact on the organization's overall financial condition.

Materiality is a judgment call of the auditors. The decision of what is material will vary from auditor to auditor.

Auditors must obtain a preliminary understanding of materiality before planning the audit. Their goal is to conduct the audit so that there is little risk of failing to detect important misstatements.

Auditors use a number of approaches when they make preliminary judgments about materiality. One common method is to measure materiality in percentages using a base (such as total assets or total revenues) that is relevant to the organization's financial position.

Step 4: Understand the five components of internal control.

Unless auditors have an understanding of the internal control structure, they can't assess the risk in financial statements. A nonprofit's internal control structure consists of five major components, which auditors must make sure are in proper place in the organization:

Component #1: The control environment sets the organization's tone. It determines whether managers believe that financial control is important. The control environment consists of the following factors:

- integrity and ethical values (management's moral and behavioral standards)
- commitment to competence (extent to which employees have appropriate skills)

A Short Audit Glossary

AICPA (American Institute of Certified Public Accountants) is the organization that develops accounting practices. The AICPA publishes the Statements of Position (SOPs) and Audit Guides that auditors use to perform audits.

Audit committee is a board committee set up to review the audit plan and financial statements with the auditors and oversee the organization's internal accounting controls.

Audit report is the auditors' written opinion on how accurate and sound the organization's financial statements are.

Audit risk is the risk of auditors giving an unqualified opinion on errors, including fraud, in financial statements.

Control risk is the risk of errors on financial statements due to an organization's internal controls.

FASB (Financial Accounting Standards Board) was formed by the AICPA to issue accounting standards.

GAAP (Generally Accepted Accounting Principles) are the accepted rules of accounting. They are dynamic and subject to change as new information becomes available and are often issued in AICPA and FASB publications. Auditors must state in their opinion letter whether the financial statements are presented in conformity with GAAP.

GAAS (Generally Accepted Auditing Standards) are the rules that auditors must observe when performing an audit. Their opinion letter must state whether the audit was performed in accordance with GAAS.

Inherent risk is the risk of errors in financial statements because the organization's internal controls can't guard against them.

Internal controls are the checks and balances used by an organization to protect its assets.

Materiality is a concept used by auditors to determine the impact of various transactions on the organization's overall financial condition. Judgments about what is material will vary between auditors.

Opinion letter (also called the management letter or letter of reportable conditions) accompanies the audit report. It tells the organization's management what deficiencies exist in the internal control system and how those problems can be corrected.

SAS (Statements on Auditing Standards) are interpretations of GAAS issued by the Auditing Standards Board. Rule 202 of the Code of Professional Conduct requires compliance with SAS. Thus, auditors must justify any departures from SAS.

SFAS (Statements of Financial Accounting Standards) are new or modified GAAPs issued by the FASB.

How You Can Save Time & Money on Your Audit

Your audit will go faster and cost less if you understand the steps auditors take. Be available to answer auditors' questions, and be prepared to give them the documents they need. Below is a checklist of information you should have available to share with auditors:

- articles of incorporation and bylaws
- state and federal tax-exempt letters
- documentation of any relationships with other tax-exempt organizations and taxable subsidiaries
- a list of board members' names, addresses, and titles
- minutes of board and committee meetings
- job descriptions for accounting personnel
- a list of transactions between the organization and members of the board
- a representation letter, signed by the executive director, stating that management is responsible for the presentation of financial statements, that all records have been made available to the auditor, that contracts are in compliance, and that illegal acts have not been committed
- a list of any events occurring after fiscal year-end that may negatively impact the organization's financial condition
- prior year's audited statements and tax returns
- books of original entry, including the general ledger, cash-receipts journal, cash-disbursements journal, payroll journal, pledges receivable, grants receivable, and accounts payable
- balance sheet and income statement
- budget comparison of revenues and expenses
- written explanations of variance between budget and actual results
- functional expense reports for such functions as fundraising, administration, and programs
- a list of all active and closed checking, savings, and money market accounts used during the fiscal year, including account numbers, type of account, purpose, custodians, names of all check signers, and any restrictions on disbursement
- a reconciliation of each bank account
- an explanation of the location of petty cash and procedures for its access
- a list of all investments
- an explanation of inventory policies, including the location of inventory, method and frequency of counting inventory, procedures to prevent theft, and policies to safeguard items
- a schedule showing all purchases of property, plant, equipment, and improvements
- copies of all purchasing documents
- a schedule of any prepaid or deferred charges at fiscal year-end, such as prepaid rent, prepaid employee benefits, insurance, and postage remaining on postage meters
- list of other assets, such as travel advances, security deposits, telephone deposits, and loans receivable
- an aged listing of all accounts receivable and payable
- a schedule of all outstanding debt, including mortgage, lines of credit, and short-term notes payable
- a schedule of deferred revenues–funds received during one accounting period but applicable to services to be performed or expenditures to be incurred in a later accounting period
- a schedule of insurance policies
- a description of all income-producing activities and an explanation of how each activity accomplishes the organization's exempt purpose
- a list of all contributions received and services donated
- purchase orders, canceled checks, and vendor invoices
- copies of payroll forms, including Employer's Quarterly Federal Tax Returns, State Unemployment Tax Forms, State Income Tax Withholding Forms, Employer's Annual Federal Unemployment Tax Return, Social Security Forms, and Worker's Compensation Insurance Policy Forms
- a copy of the organization's Personnel Handbook
- copies of all lease agreements and a schedule of required lease payments for rented property and rented equipment
- a schedule of all transfers among funds.

- board and audit committee (amount of involvement and direction provided to management)
- management's philosophy and operating style (approach to managing its business)
- organizational structure (relationships and guidelines on who reports to whom)
- authority and responsibility (how both are assigned)
- human resource policies and procedures (hiring an adequate number of employees with the skills, knowledge, and values to meet the demands of the business).

Component #2: Control activities are the policies and procedures used to pinpoint risks and situations that would prevent the organization from achieving its mission. Control activities include accounting controls (such as segregation of duties) and administrative controls (such as performance reviews).

Component #3: Risk assessment is an evaluation of the following three types of risks:

- ***Control risk*** is the risk that a material misstatement will bypass the internal control structure and get through to the financial statements. To assess this risk, auditors note the effectiveness of checks and balances, such as segregation of duties and physical controls.
- ***Inherent risk*** is the risk that a material error will find its way into the financial statements because there is no way to control it. Inherent risk is present even in organizations with good internal controls. As stated in SAS 47, *Audit Risk and Materiality in Conducting an Audit,* inherent risk is "the susceptibility of an assertion to a material misstatement assuming no controls existed." Examples of inherent risks are technological advances, management turnover, skill levels of managers, and past problems and practices. Any of these factors may cause a misstatement in the financial

How Good Are Your Internal Controls?

The better your internal control system, the more pain-free your audit will be. Ask yourself these questions. If your response to any of them is "no," focus on remedies to turn it into a "yes."

____ **Do you have written policies and procedures,** including a personnel handbook, spelling out what is permissible and what isn't?

____ **Do you keep detailed, accurate records,** including financial, payroll, and personnel records?

____ **Have you prepared an organizational chart** showing your management structure, including key volunteer positions?

____ **Does your financial reporting system** classify transactions properly and completely?

____ **Before you hire employees,** do you check their references carefully?

____ **Do you present financial information** to your stakeholders in an understandable form?

____ **Do you review your internal controls** at least once a year and make any necessary changes?

____ **Are you careful to track donations** and comply with donors' requirements?

____ **Do you understand** all federal and state guidelines that apply to your organization's financial statements?

____ **Is your budget realistic,** and do you compare it to actual results on a regular basis?

____ **Do you evaluate all risks** that may affect your financial reports?

____ **Do you keep flowcharts** of your accounting systems?

____ **Are you aware of the potential** for error and fraud so that you're ready to act before they occur?

____ **Do you separate financial duties** among employees, making sure that the person who collects cash doesn't maintain bank records?

____ **Does your board** review your financial statements, and do board minutes reflect that fact?

____ **Do you document controls** on your information systems, such as who has access and passwords to accounting programs?

____ **Is financial integrity** the foundation of your organization's operations?

____ **Do you know how you will respond** to an internal-control weakness?

____ **Do you have procedures for reporting deficiencies** to top management and the board of directors?

No nonprofit is immune from error and fraud. Your control system is your best protection.

records. In addition, nonprofit entities experience a number of financial pressures such as inflation, retrenchment, adverse demographics, and reduced funding. The typical nonprofit responds to these pressures by such measures as cost cutting, expanding alternative programs, aggressive investment strategies, interfund borrowings, external debt, and aggressive fundraising strategies. Such responses expose auditors to additional risks. Auditors need to know what the potential risks are so that they can properly design their audit program.

- ***Audit risk*** is the risk that auditors may give an unqualified opinion on financial statements that are misstated. To lessen such problems, auditors must determine which components of the financial statements have a greater risk for material misstatement and plan and prepare their audit work accordingly. SAS 47 requires that auditors assess audit risk, including the risk of errors in the financial statements due to fraud. SAS 82, *Consideration of Fraud in a Financial Statement Audit,* states that "auditors cannot obtain absolute assurance that the financial statements are free of material misstatements caused by fraud. The role of the auditors is to obtain reasonable assurance that the financial statements are free from material misstatement." When it comes to audit risk, there is no important distinction between error and fraud.

Component #4: Information and communication refers to the accounting system used to prepare financial statements and to provide stakeholders with financial information. The auditors need to decide whether this reporting system is working properly. An effective reporting system will be able to do the following:

- ***Identify and record*** all transactions that occurred.
- ***Present transactions*** in enough detail to permit proper classification in the financial statements.
- ***Assess transactions*** so that their proper monetary values are reflected in the financial statements.
- ***Reflect transactions*** in the proper accounting period.
- ***Prepare financial statements*** so that stakeholders understand the nonprofit's rights and obligations.

Component #5: Monitoring explains how well the organization's managers assess the internal control structure's effectiveness over time. Managers must evaluate and update the internal control structure on a regular basis.

Step 5: Plan and perform the audit.

It is vital that auditors perform the above steps before they establish their audit objectives. Only then can they plan the audit, decide what auditing procedures to use, and determine the timing and extent of their work.

Audit procedures should be designed to detect noncompliance with donors' requirements. For example, a donor may make a large gift and require that only the interest can be used for operating activities. The principal should remain as a permanently restricted gift. Auditors must design their audit program to discover whether this is the case. Any use of contributions that isn't congruent with donors' restrictions exposes the nonprofit organization to legal penalties.

The auditors should summarize all areas of noncompliance—no matter how small—and tell managers how to address these problems. Auditors usually do so by preparing an audit report and an opinion letter. The report gives the auditors' opinion on the validity and accuracy of the financial statements. The letter summarizes weaknesses in the organization's internal control system along with suggestions for improvement. The organization's managers should share this letter with the board and devise a plan to correct the problems.

Step 6: Reevaluate the audit approach every year.

Resource inflow and outflow will be different each year because of evolving business conditions. Thus, auditors and nonprofit managers must reevaluate their objectives and methods every time they perform an audit. ■

Resources

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Ross, Frank, "The Audit Committee: Why You Need One, How to Form One," *Nonprofit World,* Vol. 6, No. 6.

Sopher, Marti, "Setting Up a Control System," *Nonprofit World,* Vol. 16, No. 3.

These resources are available from the Society's Resource Center, www.snpo.org.

Frank J. Grippo, MBA, CPA, CFE, is an associate professor of accounting at William Paterson University in Wayne, New Jersey, and may be reached at 37 Runnymede Road, Colonia, New Jersey 07067. Joel Siegel, PhD, CPA, is a professor of accounting at Queen College in New York City.

For All Our Corporate Look…

Has your organization sold its soul? Is there a way to regain it?

BY BRUCE GLASRUD

In recent years, our sector has taken on many attributes of our for-profit cousins. The nonprofit "corporation" is ascendant. Not altogether a bad thing, the corporatization of the nonprofit sector has reduced wishful thinking as a force in delivering services to the community. Yet, while we have mirrored the attributes of the for-profit sector, many worry that we might have lost our soul in the process.

Yes, we've come a long way, baby! Yet, for all our corporate look and behavior, we are still thought of and largely act like second-class organization citizens. While corporatization has given us a more professional look, it has yet to polish our image enough that the community thinks we should be paid a professional wage. I guess we'll have to wait for that big 401K in heaven.

Can we regain our lost soul and the community's respect? Yes, if we each take a hard look at our own organization and our sector as a whole. Here are some of the things we need to do:

Revitalizing Research

For all our corporate look, our research practices remain largely shoddy and often self-serving. Whether gathering data for outcome-based accountability or framing needs assessments and background statements, we're woefully lacking in our ability to discern and articulate cause-and-effect relationships.

I guess we'll have to wait for that big 401K in heaven.

If we can't accurately link stimulus and response, how on earth can we purport to bring forth community change?

Some of our participant survey and feedback questionnaires are so skewed as to isolate the "correct" response that justifies our program. How, then, can we look down our noses at such as Enron and Big Tobacco?

When will we launch our initiatives based on hard research, not soft hearsay? When will nonprofits and funders provide for the creation of bona fide Research Departments? When a Research Department has equal clout with the Development Department, the Marketing Department, and the Program Department, we will have made quantum progress in our ability to deliver true value to our community.

Sensible and Sustainable Sector Growth

We still have much to learn about serving the "marketplace" of human and social needs. Sure, the nonprofit sector is the fastest growing area of our economy. But, rather than pat ourselves on the back, perhaps we should look at why we're growing so fast. Certainly, a large part of our growth is due to caring, committed people striking off to make a difference in their community. However, a good deal of that caring is launched without doing much of that aforementioned research. Many people start nonprofits without a vigorous investigation of the problem they want to solve. They are especially lax in "competitive intelligence," identifying existing agencies that may be already working on that problem.

Are nonprofits truly corporatized in their thinking? It seems not. Too many are committing marketing blunders along the lines of building a McDonald's without realizing that there's a Burger King right across the street! This isn't thoughtful community building. It is willful and wasteful do-gooding.

As the number of nonprofits skyrockets, whining about lack of funding grows louder. In turn, the funding community bemoans having more and more of us with our hands out for dollars. We must find someone (else) to blame for this mess! Those darn politicians are probably behind it all. Why, if it weren't for them, surely we'd have enough money for all the nonprofits we'd ever want to start!

Before a new organization is granted a 501(c)3 status, perhaps we should require the equivalent of a patent or copyright search. Or, at least a checklist like the following:

- First, produce some valid research on the problem or condition.
- Next, propose an evolutionary service or service delivery scheme, not just a rehash of what's already offered by another agency.
- At the very least, display a map proving there isn't another agency similar to the one you are proposing within, say, a six-block radius.
- Better yet, prove you are aware of that other agency and are willing to compete with them for funding by actually providing a better program or a service delivery improvement!

This isn't to urge a moratorium on new nonprofits. We desperately need new ideas in our sector. New nonprofits do need to be given a chance. We need them to drive out those older nonprofits that are resting on their laurels and haven't had an innovative thought in years. Our field is sodden with organizations rehashing old solutions and duplicating efforts. This, because they haven't done adequate research and marketplace analysis in their mission sphere before launching their organizations.

Ethics, Integrity… and Other Stuff That Sometimes We Don't Quite Understand

We like to visualize ourselves as morally superior to our corporate cousins. Yet, our workplaces are rife with the same characters that Scott Adams lampoons in his Dilbert cartoons. Yes, friends, here's one area where we can truly compete head-to-head with the for-profits. Admit it; we have the same micro-managing executives, the same soulless HR practices, and the same toxic organizational cultures. The difference is, our ills are covered up under layers of warm-fuzzies.

Independent Sector recently came out with a Ethics and Accountability initiative "to provide tools and guidance to

Our field is sodden with organizations rehashing old solutions and duplicating efforts.

help the boards and staff of nonprofit organizations develop clear standards and procedures for ethical behavior." Essentially, Independent Sector wants us to follow a code of ethics "at a time when the public is concerned about the ethics of…(insert a list that covers everybody)." Well, hooray. Under something they're calling "Obedience to the Unenforceable: Ethics and the Nation's Voluntary and Philanthropic Community," they've even created a whole compendium of nonprofit standards for us to use as a resource. "Obedience to the Unenforceable?" Wow. Sounds like something a preacher would come up with when he ran plumb out of sermon titles! There surely are a lot of sinners in our sector. Otherwise, the Independent Sector organization wouldn't have gone to all this trouble, right? Face it; all the fancy ethics statements in the world won't improve upon one good look in the mirror.

We all like to think of our staff as dedicated to our mission. They work hard because the mission makes them passionate about their work. Hooray for us! However, it's often that same dedication that lets them overlook their shabby treatment by the executives and board members who oversee how that mission is served. Hooray for us? The etiology of "compassion fatigue" in nonprofit staff may be less cause-centered and more management-centered. So sure, go ahead and put an ethics statement up on the wall—-put it right up there next to your mission statement. You'll then have done your bit to restore the public trust, eh? But what about the trust of your staff? If you want an ethical challenge, how about assessing what your mission is inspiring your staff to excuse, in you and your board?

Pay-Back Time?

There's one final challenge for the nonprofit sector. We must bring value back to the for-profits! We're indebted to them for teaching us much about organizational management. We're also indebted to them for financial and volunteer support. Now, how do we pay them back? Sure, we serve our mission. Sure, we make our communities better places in which to work and live. Yet, what can we directly teach the for-profits that will improve them organizationally, as they have improved us? If we're truly different in character from for-profits, then there must be something we can offer. Otherwise, our mantle of moral superiority is no more than a mythical garment woven of warm-fuzzies. Otherwise, we don't have that much of a soul to lose to corporatization after all.

Meeting these challenges won't be easy. Doing so will, however, make us more dynamic and effective in the difficult times ahead. Fortunately for you, dear reader, *Nonprofit World* will continue to provide all the ideas, timely information, and practical tools you'll need to evolve and thrive in the years to come. ■

Selected References

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These resources are available from the Society's Resource Center, www.snpo.org.

Bruce Glasrud is an anthro-futurist and president of Third Sector Horizons (7400 Highway Seven #105, St. Louis Park, Minnesota 55426, futurer@aol.com), specializing in nonprofit organization futures.

Essential Reading for Fundraisers

The latest edition of Kim Klein's classic book is must reading for small nonprofits.

BY TERRENCE FERNSLER

Fundraising for Social Change, Fourth Edition

By Kim Klein. 403 pages. Softcover. Chardon Press, 3781 Broadway, Oakland, California 94611.

This is the fourth edition of what has become the fundraising bible for small nonprofits. While it's particularly useful for those without a development office, its principles apply to any nonprofit organization. Despite its length, it is highly readable. Kim Klein has much to say about fundraising, gleaned from many years in the trenches, and emphasizes her points with persuasive anecdotes.

Fundraising is not a separate activity but must be included in the organization's overall plan of work, Klein explains. Boldly and accurately, she points out that most fundraising problems arise from organizational issues—the executive director's ego, boards confused about their role, poor communications—and describes how to deal with each of these issues.

All nonprofits complain that their situation is unique and that no one understands how difficult fundraising is for them. While each organization is (or should be) unique, much that we learn about fundraising is transferable. Still, Klein looks at some special challenges that truly may make fundraising more difficult—raising money in rural areas, fundraising for a coalition, and fundraising for brand-new and all-volunteer organizations–and gives excellent advice about dealing with the problems involved.

Klein focuses on individual giving because nearly 90% of gifts to nonprofits are made by individuals. As she points out, personal solicitation is the most effective—but not necessarily the most efficient—way to raise funds. Stressing the importance of diversified fundraising, she covers everything from special events to Internet fundraising and shows how to include each method in an overall strategy.

One of the most interesting sections in this book is about development as a career. It is much longer than in previous editions—with good reason, because there are few other resources on the subject. Klein understands better than anyone the hands-on, high-variety job of fundraising in small nonprofit organizations. Her tips for people in these organizations—board members, other volunteers, executive directors, and development directors—are invaluable.

Although it has been expanded and updated, Klein's book hasn't changed much in format and content. It continues to be essential reading, especially for nonprofits with limited experience in fundraising. ■

Terrence Fernsler is development director of the Resource Conservation and Economic Development District in Aberdeen, Washington, and president of the Development Training Institute, P.O. Box 15, 311 W. Martin, Elma, Washington 98541.

NONPROFIT *briefs*

New Enterprise Resource Available

The National Gathering of Social Entrepreneurs and SeaChange have merged to create the Social Enterprise Alliance. The organization's mission is to build strong, self-sustaining nonprofits through earned-income strategies. For more information, visit www.ngse.org.

Long-Term Forecast for Philanthropy Is Bright

While the economy has taken a toll on the nonprofit sector, the long-term outlook for philanthropy remains positive, according to Eric Schmuckler, writing in *Barron's* (www.barrons.com). Overall giving is much higher than it was in the early 1990s. Gifts by individuals rose 50%, to $160.7 billion, between 1995 and 2001, while foundation giving has doubled since 1996. The authors of *Millionaires and the Millenium* stand by their estimate that the intergenerational transfer in wealth over the next 50 years will be between $41 trillion and $136 trillion, with $6 trillion to $25 trillion going to charitable bequests.

What Have We Learned from 9/11?

An analysis of the nonprofit sector's response to 9/11, based on surveys by the Brookings Institution and reported in *Responsive Philanthropy* (www.ncrp.org), pinpoints some compelling conclusions:

What Went Right?

1. The nonprofit sector raised more than $2 billion to help those affected by the Sept 11 terrorist attacks—an outstanding accomplishment.

2. Money for emergency assistance was distributed to the families of those who needed it. In most cases, the money was available when it was needed.

3. Nonprofits cooperated with one another to provide assistance.

4. Nonprofits acknowledged the need for long-term help, and many set aside funds to help people over the next five years. Saving resources for long-term needs is wise as long as the organizations remain focused about the funds' uses and communicate effectively with donors and the public.

What Went Wrong?

1. Yes, funds were raised—but for what? There has been persistent conflict between nonprofits' proposed use of funds and donor perceptions about the purposes for which they donated. Such conflict is one of the greatest threats to the continued vitality of the nonprofit sector.

2. Collaboration was insufficient to meet community needs. Institutional differences among organizations inhibited the creation of more client-friendly systems, such as a common intake form, database, and financial-aid practices.

3. Organizations failed to act as partners with communities. Many people affected by 9/11 complained that they lacked a voice in resource-distribution decisions. Charities were uncertain how to respond to these complaints and unable to explain their decisions (in giving one family more money than another, for example) in a convincing way.

4. Others told our story. Despite all the things that nonprofits did right, the media emphasized the negative aspects of the relief effort. Today, what stands out is the absence of stories about the speed with which a disaster-relief infrastructure was created and the enormous amount of assistance that was provided. Charities missed a critical chance to tell their story. A media-savvy, coordinated effort could have delivered a positive message about the nonprofit sector. Instead, critics filled that void and undermined the sector's credibility.

Donor-Advised Funds on the Rise

A survey of community foundations notes the growing popularity of donor-advised funds, in which donors can give cash, stock, or other assets to a community foundation and then recommend how the money in the fund should be distributed to charity. The donated funds are invested in the financial market so they can keep growing.

The 200 community foundations responding to the survey hold over 17,000 donor-advised funds, worth $5.18 billion. In the most recent year, 2,601 new donor-advised funds were created.

A report of the survey, "A Flexible and Growing Service to Donors: Donor-Advised Funds in Community Foundations," is available from the Council on Foundations, 1828 L Street, N.W., Washington, D.C. 20037, 202-466-1652, www.cof.org. Also see "Will Donor-Advised Funds Revolutionize Philanthropy?," *Nonprofit World,* Vol. 19, No. 2, available through the Society's Resource Center, 734-451-3582, www.snpo.org.

Name Change Heralds New Directions

As a result of redefining its future, the Peter F. Drucker Foundation for Nonprofit Management has changed its name to the Leader to Leader Institute. The Institute will build on the Foundation's legacy by pursuing its mission in three areas: developing social sector leaders; forging cross-sector partnerships; and providing leadership resources. Contact the Institute at 320 Park Avenue, Third Floor, New York, N.Y. 10022, 212-224-1174.

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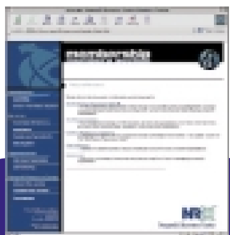

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