

# IOWA

## Principles *and* Practices

### *for*

## Charitable Nonprofit

# Excellence

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Developed by:  
The Iowa Governor's Nonprofit Task Force



Produced by: Chet Culver, Iowa Secretary of State  
Adopted:  
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Dear Iowa Nonprofit:

As Secretary of State, I want to commend the thousands of Iowans who serve as nonprofit board members, volunteers and employees. It is indisputable that these individuals and their nonprofit organizations play a crucial role in assuring a brighter future for our communities and, ultimately, better opportunities for all Iowans.



As a result of my participation on the Governor's Nonprofit Task Force, I am sharing this guide of Iowa Principles and Practices for Charitable Nonprofit Excellence.

Task Force members formulated these principles and practices as a way to promote good management practices, ethical conduct, and public accountability. By compiling the information in this guide, we hope to provide a valuable tool for organizations and individuals as they go about the work of building better Iowa communities.

Iowa has always been made up of vital communities. Increasingly, the factors that boost community vitality come from Iowa's charitable nonprofit organizations. I hope this booklet serves as a useful resource for local nonprofits.

If there is further information or assistance my office can provide, please let us know. Also, link to information on Iowa's nonprofit corporations from our Website: [www.sos.state.ia.us](http://www.sos.state.ia.us).

Sincerely,

A handwritten signature in cursive script that reads "Chester Culver". The ink is dark and the signature is written in a fluid, personal style.

Chester J. Culver  
Secretary of State



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**PREAMBLE**

The purpose of the Iowa Principles and Practices for Charitable Nonprofit Excellence is to promote good management practices, ethical conduct, and public accountability for Iowa charitable nonprofit organizations as they perform their crucial community services. The Iowa Principles and Practices for Charitable Nonprofit Excellence recognize that good organizational practices are primarily implemented through education and self-regulation. The Principles and Practices are not regulatory. While many of the Principles and Practices will be helpful to all nonprofits, they are specifically written for 501(c)(3) organizations. The Iowa Principles and Practices for Charitable Nonprofit Excellence are intended to be primarily an educational process designed to improve efficiency and accountability. Iowa is enriched by the great diversity of kinds of nonprofits, and it is recognized that the implementation of these Principles and Practices will take different forms and occur at different levels given the resources of the nonprofits.

A “Principle” is a broad statement of ethical or managerial directions for a charitable nonprofit.

A “Practice” is a description of a method to achieve the principles. Practices follow the related Principles.

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**I. ROLE OF CHARITABLE NONPROFIT ORGANIZATIONS****Principle**

Iowa charitable nonprofit organizations are the essence of community. Iowa's citizens, volunteering in the thousands, build our communities. Iowans on their own initiative address local needs, formulate values, and take action through these voluntary associations. Community organizations range across the broad spectrum of daily life including religion, health, social services, education, culture, community development, housing and human rights. Many are small and financially fragile. Yet they are vital factors in making Iowa a great place to work and live. It is only with these crucial community nonprofit associations that Iowa advances economically and socially. The people of Iowa should recognize and support the contribution of the charitable nonprofits to their community through volunteer effort and donations.

**Practices**

1. Charitable nonprofits must be publicly open and accountable, must be well managed, and must continually build trust with the public by appropriate financial reporting, communications with the public about significant contributions to the community with the charity's funds and programs, and strongly evident commitment to ethical behavior.
2. Chartered by the State of Iowa, charitable nonprofits should work to have a responsible relationship with appropriate state agencies, including the Iowa Attorney General, the Secretary of State, and the Department of Revenue and Finance. Iowa charitable nonprofits should respect and comply with the regulations and oversight of the U.S. Internal Revenue Service which grants and administers tax exempt status.

**II. STARTING THE CHARITABLE NONPROFIT****A. Principle – Statutory Guidelines**

Iowa charitable nonprofit organizations, whether nonprofit corporations, trusts or unincorporated associations, must ensure that they comply with statutory guidelines and common law in creation of their legal form.

**Practices**

1. A charitable nonprofit organization can be organized in Iowa as a corporation, a trust, a limited liability company, or an unincorporated association. While partnerships and sole proprietorships are legal entities in Iowa, the Internal Revenue Service will not give 501(c)(3) status to such entities.
  - a. Nonprofit corporation status under Iowa Code chapter 504 is often a preferable form for charitable nonprofits, due to the limitation on liability of all those working for the charitable nonprofit corporation. Contrast this to unincorporated associations, in which there is a higher degree of exposure for all association members. Nonprofit corporations are formed by filing the articles of incorporation with the Iowa Secretary of State. The Revised Iowa Nonprofit Corporation Act differentiates among mutual benefit, religious

and public benefit corporations. Religious and public benefit organizations are traditionally treated as charitable tax exempt organizations.

- b. Charitable trusts can be formed with a declaration of trust or trust indenture. Iowa Code chapter 634 is applicable to private foundations that are trusts. Creation of trusts is more common in the private foundation setting in Iowa than in the public charity setting. The Iowa Attorney General may exercise oversight of charitable trusts (Iowa Code Section 633.303).
- c. Limited liability companies (“LLC’s”) are formed under Iowa Code chapter 490A with articles of organization, a sample of which is available on the Secretary of State’s web site at <http://www.sos.state.ia.us/business/llc.html>. LLC’s can be charitable and receive exemption under 501(c)(3) in limited circumstances, only when all of its members are 501(c)(3) organizations.

## **B. Principle – Instrument Creating Nonprofit**

The instrument creating the charitable nonprofit should adequately describe the organization, giving its name, charitable purposes and contact information for the organization.

### **Practices**

1. Iowa Code Section 504.202 stipulates the contents of the articles of incorporation that must be filed with the Office of Secretary of State.
  - a. The corporate name must be distinguishable from other corporate names.
  - b. The organization must have a lawful purpose.
  - c. The corporation must have a registered office and agent.
  - d. The articles of incorporation must set forth whether the corporation has members with governance level voting rights, such as the right to vote for directors. If the articles of incorporation do not specify those rights, the statutory membership requirements apply. If the articles stipulate that there shall be no members with legal rights, support groups can be called “members” without legal rights.
  - e. The articles should also include provisions essential for federal tax exemption eligibility. These include restrictions on legislative advocacy and prohibition of private financial distributions to individuals except as reasonable compensation for services rendered.
  - f. The articles also may include provisions addressing the directors’ immunity from liability to the corporation and its members as well as impose requirements on the corporation regarding indemnification of directors and officers of the corporation.
2. Trusts in Iowa must be consistent with Iowa Code Section 633.1101 et seq. Charitable trusts must include provisions required by Iowa Code Chapter 634 and Section 633.5101 et seq. If created in a testamentary context, the provisions of Iowa Code Section 633.699 et seq. must also be considered.
3. Unincorporated associations are not governed by Iowa statutory requirements, but adequate articles of organization should include provisions comparable to those required by the nonprofit corporation act as listed above in section 1a - f.



**C. Principle – Bylaws/ Governance Document**

For charitable nonprofit corporations and unincorporated associations an organizational meeting should be held soon after the formation of the entity by the initial directors to elect directors and officers, to adopt bylaws and to commence the activities of the organization. For charitable trusts the trustees designated by the founder (“settlor”) should have their initial meeting.

**Practices**

1. By-laws should be composed and adopted by the board which provide for regulating and managing the affairs of the charitable nonprofit entity. Bylaws are not filed with the Secretary of State but are an internal document. Bylaws should address:
  - a. The board of directors size, meeting times and notice requirements, nomination and election provisions
  - b. If there are members with governance level voting rights, the meeting times and notice requirements for membership meetings.
  - c. The committees of the organization
  - d. List and describe the responsibilities of the officers of the organization
  - e. The fiscal year of the organization
  - f. The process of amendment of the bylaws.

**D. Principle -- 501(c)(3) Status for the Charitable Nonprofit**

After completion of incorporation, creation of the trust with an indenture, or adoption of the articles of organization of an unincorporated association, the board should seek tax treatment consistent with its charitable purposes under Internal Revenue Code 501(c)(3) from the U.S. Internal Revenue Service, and then faithfully and successfully conduct the affairs of the nonprofit entity within that Code section’s provisions.

**Practices**

1. Application should be made to the US. Internal Revenue Service for federal income exempt status on IRS Form 1023 available on the IRS web site at <http://www.irs.gov/pub/irs-pdf/f1023.pdf>.
2. The nonprofit should also apply for an employer identification number (“EIN”) with form SS-4 available on the IRS web site at <http://www.irs.gov/pub/irs-pdf/fss-4.pdf>. This EIN number is required even if the charitable nonprofit is not an employer.
3. Subsequent to receiving federal recognition as a 501(c)(3) organization, there is no required filing for exemption from Iowa income tax.
4. The charitable nonprofit entity may make application for other state and local tax exempt status, such as property and sales tax (see Iowa Code 427.1(8), Iowa Code 422.45).
5. An Iowa nonprofit corporation that expands its activities into other states should submit the required foreign corporation filings in those states.

**E. Principle -- Government Filings**

Chartered and granted tax exempt status by the government, charitable nonprofit organizations must file reports with government agencies and comply with the applicable law.

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**Practices**

1. Nonprofits should file the reports required by Iowa state law.
  - a. For Iowa nonprofit corporations, Biennial report and informational updates to Secretary of State. The Secretary of State has the discretion to commence an administrative proceeding to dissolve a corporation if any of the following occurs:
    1. the corporation does not deliver its biennial report to the secretary of state within 60 days after it is due.
    2. the corporation is without a registered agent or registered office in Iowa for 60 days or more.
    3. the corporation does not notify the secretary of state within 60 days that its registered agent or office has been changed.
    4. the corporation's period of duration, if stated in years in the articles of incorporation, has expired.
  - b. For charitable trusts, there is no annual filing requirement with the state of Iowa, except if the trust were created in a testamentary context.
  - c. For nonprofit unincorporated associations there is no annual filing requirement with the state of Iowa.
2. Nonprofits must file the reports required by taxing authorities.
  - a. Annual informational report to US Internal Revenue Service. A 501(c)(3) organization with public charity status must annually file a Form 990 report if its annual gross revenue is \$25,000 or more. Churches are not required to file the Form 990 even if the church's revenue is above that amount. 501(c)(3) entities that are private foundations file Form 990PF. There is no required Iowa tax filing.
  - b. If there is unrelated income for the 501(c)(3) entity, it must file both a federal 990T form and a form 1120 with the Iowa Department of Revenue and Finance.

**III. MISSION STATEMENT****Principle -- Developing the Mission Statement**

The Mission Statement sets forth the organization's basic service. Unlike the purpose clauses of the articles and bylaws, which are commonly constructed in legal language to ensure government regulators that the organization will comply with the governing law, the Mission Statement should be set forth simply and clearly in language which can be understood by the general public.

**Practices**

1. The mission statement should be a rallying point for the organization's constituencies: board, staff, volunteers, clients, donors, and the general public.
2. The mission statement should serve as the basis for evaluating the success of the organization.
3. Nonprofit mission statements should contain the following elements:

- a. Name of the Organization. The name of the organization should clearly describe the core organizational service. Avoid clever names understood only by insiders.
  - b. Tag Line. A short tag line following the name of the organization can further clarify to the general public the essence of the organization.
  - c. Mission Statement. Should describe what the organization does.  
Vision Statement Should describe what the organization ultimately desires to achieve by carrying out the mission. What is the outcome sought by the work of the organization?
  - d. Values Statement Should set forth the principles that will guide the organization in carrying out its mission, e.g., diversity, empowerment, compassion, sharing, inclusiveness, openness, integrity, respect, partnership. It outlines the ethical means to the mission ends.
4. The responsibility for creating the mission statement is that of the board of directors. The board must adopt the mission statement. The staff leadership should be actively involved. It is also desirable to consult with the paid and voluntary staffs, representatives of the donors, clients, and the general public the organization serves. The mission statement should be periodically reviewed in conjunction with the strategic planning of the organization.
  5. While it is desirable to be succinct in a mission statement, it is necessary to be sufficiently specific so that all constituencies can clearly understand the rationale of the organization. Among the issues to be considered when drafting a mission statement are:
    - a. Why does the organization exist?
    - b. What service does the organization provide?
    - c. What is the geographical boundaries in which the organization will function?
    - d. Who are the clients to be served? Why should the clients utilize the services of the organization?
    - e. What differentiates the organization from those working in the same or allied fields? What is the organization's niche? How do you position the organization in the community?
    - f. Who are the key constituents both internal and external? Why should they associate themselves with the charitable nonprofit? In short, who are we? Why are we here?

## IV. STRATEGIC PLANNING

### A. Principle -- Strategic Planning

To achieve its mission and vision, a charitable nonprofit organization needs a comprehensive plan which sets forth the organizational goals with specific action steps to be taken by specific individuals. Organizational success depends on execution of the plan.

#### Practices

1. The board has the responsibility for adopting the strategic plan. The executive director and staff should be actively involved in the planning process with counsel from other organizational constituencies.
2. Board and staff often resist planning because of the time and group thought required. However, if there is no group consensus on organizational direction and implementation action, the organization will be dysfunctional. An outside facilitator can help bring issues before the group in a non-threatening way.

3. A comprehensive strategic plan sets forth general goals for all aspects of the organization's operations. This includes programmatic services, administrative support services, funding, budgeting, personnel needs, marketing and public relations. The plan should identify the desired outcomes of the plan for the organization's constituencies and the method for assessing the achievement of those outcomes.
4. Each goal should be broken down into specific actions (objectives/ strategies/directions) required to achieve the goals including timelines and personnel designated to carry out the action.
5. A "SMART" strategic plan has goals and objectives which are:
  - Specific
  - Measurable
  - Attainable
  - Results oriented
  - Time bound
6. The strategic plan should identify specific management risks and provide for their reduction, elimination, or insurance. Such risks include loss of tax exempt status, fraud, embezzlement, fire, theft, service delivery malpractice, facilities, and automobiles.
7. Strategic planning should be undertaken every three to five years. The plan should be monitored at least quarterly by the board to determine progress toward goals and to make adjustments on the plan based on experience and new pertinent information. New board member orientation should include the current strategic plan.
8. Strategic plans should provide for a method of evaluation/assessment of the outcomes/impact of its programs on the constituencies served.
9. The strategic planning process should include a SWOT (Strengths, Weaknesses, Opportunities, and Threats) assessment of the organization's strengths and weaknesses. There should also be an assessment of the external environment in which the organization functions which present opportunities and threats such as new improved ways of service and service providers, new laws and regulations, economic, demographic and other social trends. A SWOT evaluation could result in the organization dropping or adding service or collaborating with other organizations for increased efficiency and cost reductions. To be effective a SWOT analysis needs to incorporate the views of clients served, funders and other publics.
10. Boards should consider making a final version of the strategic plan which can be shared with the public.

## **B. Principle -- Funding for the Plan**

Adequate funding is essential to executing a strategic plan.

### **Practices**

1. The strategic planning process requires a multiyear (3 years) over all balanced budget plan which consists of realistic estimates of income and expenses projected over a timeline. A conservative approach to budgeting protects staff jobs and assures client service.
2. At least quarterly, the board must review the budget status and reduce expenditures where income falls short. Balanced budgets are crucial.

3. Most funders want their money to be spent on future projects, not retiring the organization's debt.
4. A budget plan requires additional detailed action plans to identify funding sources and to acquire funds. Fund raising from private individuals requires a specific plan.

## V. BOARD OF DIRECTORS

### A. Principle -- Board Responsibilities

Each charitable nonprofit must have a board. Except as otherwise provided (by law and the governing document), all corporate powers shall be exercised by or under the authority of, and the affairs of the charitable nonprofit managed under the direction of, its board. (See Iowa Code section 504.801 for nonprofit corporations, Iowa Code section 633.4101 et seq. for trusts) The board should be active

#### Practices

1. A board of directors' primary responsibilities are to determine the organization's mission and its policies, set the organization's overall program for the year and engage in long range planning, establish the fiscal policy, provide adequate resources for the activities of the organization; select, evaluate and if necessary terminate the appointment of the chief executive, and develop and maintain communication links to its constituencies and the community.
2. The board should avoid involvement in day-to-day operations of the charitable nonprofit, although it is recognized that for smaller nonprofits, with no paid staff, this is not possible.
3. The board sets organizational policies and monitors compliance with them. In making policies for a charitable nonprofit, a board is setting objectives against which to measure the organization. Setting and monitoring policy protects directors from liability where they act in good faith and with due care.
4. Board members must follow through on their assignments, attend regular and specially called meetings and come to meetings prepared.
5. The board is responsible for securing funding resources to ensure the financial viability of the organization and its programs. Asking for and giving money are necessary. Every board member can do something useful to support fund raising efforts.
6. For charitable nonprofits there should be a strong commitment to boards serving in a volunteer capacity; if a charitable nonprofit wishes to compensate board members, it needs to have significant justification for the expenditure.

### B. Principle -- Board Membership

The board is not an abstraction. The board consists of volunteer citizens who come together in public service requiring their time and competency.

#### Practices

1. Independence — The board should consist primarily of independent persons who are not employees of the organization. The paid executive director(s) can serve as an ex officio

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board member, either voting or non-voting, with the provision that executive sessions of the board can be held periodically without the ex officio member present. If the executive director is to be ex officio, the bylaws must clearly state that. Where independent directors may have episodic business relations with the organization, such relations should be pursuant to conflicts of interest rules. (See F. 2. below)

2. Election — Directors are elected by the voting members of the organization, by the board of directors, or as otherwise specified in the articles and/or by-law provisions. In charitable trusts the trust document (or, if testamentary, the court docket) must be consulted to determine if any or all of the trustees are designated by the settlor (or appointed by the court) who must continue on until their death or resignation.
3. Size — Board size depends on the particular mission of the organization. At a minimum, the board size should be five members to assure the capacity to carry out the board duties. Among the factors which determine size are: geographical coverage, diversity, needed board skills, access to funding, and representation of constituencies served. It is essential that the talents of all board members be used to good advantage.
4. Skills and Talents
  - a. Operational area — these include management, finance, investment, law, accounting, public relations, fund raising. Together board members should have a range of operational competencies needed to carry out the duties of the board.
  - b. Program understanding — knowledge of and informed insight on the organization's programs.
  - c. Connection to constituencies — widespread support requires a diverse board, including representation from groups the organization directly serves.
  - d. Advocacy leadership — access to resources, influence with constituencies important to the charitable nonprofit organization.
  - e. Inclusiveness — age, sex, ethnicity, religion, sexual orientation, socio-economic background, and geographic location of prospective board members.
  - f. Commitment — give time and funds and participate in fund-raising.
  - g. Supportive – of mission, vision and values.
5. Attitudes -- Board members must be able and willing to work and contribute the strengths they have. Board members should have a positive attitude toward the organization! Board members should be:
  - a. Knowledgeable
  - b. Interested
  - c. Enthusiastic
  - d. Accountable
  - e. Committed
  - f. Team players
6. Board Orientation. Either individually or collectively, new board members should receive oral and written orientation to their responsibilities as well as those of the executive director and staff. The board members should receive an overview of the board manual. The board manual should contain a history of the organization, its mission statement, its articles of incorporation and by laws, its major policies, the long range plan, the list of current board members, the committee names and functions, and the minutes of last year's meetings.

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### C. Principle -- Team Effort

The board is a team. It functions as a body rather than as individuals. The board leader is the chair who works closely with the executive director to provide the team with information and involvement.

#### Practices

1. Officers — Unless otherwise provided in the bylaws, the officers of the board of directors are the President (Chair), Treasurer, and Secretary, Iowa Code Section 504.841. They are elected by the board, or, for some organizations, by a voting membership.
2. Meetings — Board meetings should be regular and engaging. Board meetings are more efficiently run when there is an agenda which is followed for the meeting, and when there are time limits on each agenda item, and facilitation of participation. Every board meeting should include a financial report. It is essential that the board have current knowledge of the organization's financial situation so that it can take appropriate action to keep the budget balanced. Board meetings should also monitor policy application and program activity.
3. Information after board members are on the board — the nonprofit staff should continue to develop board members by special training on legal and other pertinent organizational issues, economic and social environmental trends, moving them from one committee to another, touring of the organizational facilities and participating in services offered by the organizations, distributing of charitable nonprofit monographs, organizing planning retreats for board/staff at which long range trends and goals are discussed, and by 20 minute training sessions on issues of vital importance to the organization periodically at board meetings.
4. Board Committees: For Iowa nonprofit corporations there must be at least two board members on the board committee, typical board committees include the following:
  - a. Program
  - b. Budget and Finance
  - c. Audit
  - d. Investment
  - e. Personnel (Human Resources)
  - f. Fund Raising
  - g. Marketing/Public Relations
  - h. Facilities
  - i. Governance (Nominating)

In the case of a larger board, an executive committee handles matters between full board meetings and is required to report interim action to the board. See Iowa Code Section 504.826 for nonprofit corporation's committee provisions. Iowa Code Section 504.826(6) provides "The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in Section 504.831."

5. Advisory boards and support groups. The board of directors is the sole governing body of the organization. It can establish boards advisory to it such as friends groups including those called "membership" which have no voting/governance authority.

**D. Principle -- Board Chair Leadership**

The board chair is key in organizational dynamics. Organizational transition always flows through the board chair.

**Practices**

1. The board chair must have the skills, disposition and enthusiasm needed for board leadership.
2. The board chair and the executive director together must chart the course of the board's work (along with an executive committee where it exists). This includes developing board meeting agenda, appointing and staffing of board committees, and recommending of policies.
3. The board chair must create a collegial atmosphere for the conduct of board and committee meetings. The board chair is a team builder.
4. There should be a position description for the board chair.
5. The executive director must be evaluated annually. If the executive director is not performing satisfactorily, the board chair and the board specify areas for improvement based on the evaluation, coach, and then, if insufficient improvement in performance, replace the executive director rather than cross the line from policy making into policy administration.
7. Increasingly, charitable nonprofit boards engage in annual evaluation of their performance as a board. These evaluations should focus on the effectiveness and dynamics of the board as a whole as well as board committees and their leaders.

**E. Principle Board/Staff Relationship**

Nonprofit organizational success depends on the clear delineation of responsibilities and mutual respect between the board and the staff.

**Practices**

1. The board governs, the executive director administers.
2. The executive director is appointed by and terminated by the board.
3. Board stewardship is a major responsibility and time commitment of the executive director. It is essential for the executive director to respond promptly and openly to the board. Executive directors are most effective when they understand, respect and foster the role of the board.
4. The board chair and the executive director are the intersection between the board and staff. There must be a trusting and open relationship of mutual respect between the board chair and the executive director.
5. The board must function as a board and speak through the board chair to the staff. The staff must function as a staff and speak to the board through the executive director. While individual members of the board and staff will work together, converse and learn together through board committees and other organizational activities, it must always be recognized that "the buck stops" with the board chair and the executive director.
6. Board and staff interact under a formal communication process. Therefore, it is imperative for the board chair and the executive director to be open with their colleagues. Communication — including both dissent and bad news — must flow freely through these two communication conduits. Information breeds understanding.



8. The executive director and staff need to be open, forthright, patient and timely in their responses to the board. Staff needs to recognize that board members have limited time to offer the organization, that they desire to be as effective as possible, that they need to feel that their expertise and skills are effectively utilized, and that the executive director and staff will not be defensive when challenged.
9. Where the executive director(s) is an ex officio member of the board, it is important that the board be given the opportunity to meet regularly without the executive director being present. Open communication within the board about the work of the executive director is the best way to assure good relationships.

### **F. Principle -- Board's Fiduciary Duty**

Charitable nonprofit board members and staff need to be aware of and comply with the three legal fiduciary duties related to their work: the Duty of Care, the Duty of Loyalty, and the Duty of Obedience.

#### **Practices**

##### 1. Duty of Care

Directors must meet the duty of care by exercising their responsibilities in good faith and with diligence, attention, care and skill. (For nonprofit corporations, see Iowa Code Section 504.831; for charitable trusts, see Iowa Code Section 633.4203.) This includes both decision making and oversight responsibilities, and is fulfilled by such things as attending board meetings regularly, entering discussions, reading minutes, learning about the organization's programs, maintaining a careful oversight of finances, and questioning unclear or troubling activity.

##### 2. Duty of Loyalty

Charitable nonprofits directors meet the duty of loyalty by placing the interests of the organization before the director's private interests, including scrutinizing transactions in which the director has a personal financial interest, providing no loans from the nonprofit to directors and/or directors' family members, and avoiding the use of organizational opportunities for personal gain. (For nonprofit corporations see Iowa Code Section 504.833; for charitable trusts, see Iowa Code Section 633.4202.) Conflicts of interests are managed rather than entirely avoided, and to do so there should be a written conflict of interest policy which includes:

- a. an annual written conflict disclosure by all board members,
- b. another disclosure process as particular conflict of interest situations arise for particular directors, and
- c. provisions for the individual board member to not be involved in the board action on matters in which that board member has a conflict of interest.

##### 3. Duty of Obedience

Directors must meet the duty of obedience by carrying out the purposes and mission of the charitable nonprofit, complying with federal and state law applicable to nonprofits, doing required filings, and complying with the organization's governing documents -- articles of incorporation and bylaws.

**G. Principle -- Board Risk Management**

Nonprofits should engage in regular risk management regarding board liabilities

**Practices**

To help minimize the potential liabilities of board members, nonprofits in Iowa should consider

- a. Entity status ( i.e., incorporation, by which the entity is liable, but not those working for the corporation).
- b. Specific statutory immunity (in which acts neither intentional nor criminal are protected from liability) see Iowa Code Section 504.901.
- c. Indemnification (nonprofit corporation law in Iowa requires in some circumstances that the nonprofit corporation to indemnify its board of directors) see Iowa Code Sections 504.852 through .857.
- d. Purchase of Director's and Officer's insurance (which covers costs associated with directors and officers being sued in connection with their work for the nonprofit) see Iowa Code Section 504.858.

**VI. EXECUTIVE DIRECTOR****A. Principle -- Executive Director Responsibilities**

The executive director has the administrative responsibility day-to-day for achieving the organizational mission and assuring the efficient and effective operation of the organization.

**Practices**

1. The executive director has the responsibility to carry out the policies, procedures, and strategic plan adopted by the board.
2. The executive director must be effective in the use of the organization's assets, human resources and program delivery, and set sufficiently high goals for the organization to achieve.
3. A major responsibility of the executive director is to work closely with the board through the board chair.
4. The executive director must have the intellectual vision to develop the organization and push the mission of the organization in seminal directions.
5. The executive director must be able to implement the vision through well conceived programs that serve the public and develop supportive constituencies.
6. The executive director must be a communicator who can articulate the nonprofit's niche to attract and retain public constituencies.
7. The executive director enlarges the financial base by expanding private contributors, increasing inter-institutional collaboration, and developing new approaches to all levels of government.
8. The executive director must like people and be open to suggestions and the perspectives of others.
9. The executive director assures compliance with legal, financial, accounting and ethical requirements.
10. The executive director performs his or her responsibilities subject to fiduciary duties.

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**VII. HUMAN RESOURCES****A. Principle -- Motivation of Staff**

Paid staff and volunteers operate and deliver the services of the charitable nonprofit organization. The quality of their work and their commitment to the organization's mission determine the success of the organization.

**Practices**

1. Staff and volunteers should receive clear direction from and regular supervision and evaluation by their supervisors.
2. Organizational policies and practices should address human resource issues and be made available to staff and volunteers.
3. A motivational environment and recognition of work well done are powerful stimuli for staff and volunteers.

**B. Principle -- Development of Staff**

As the services and operations of charitable nonprofits become more complex, there is an increasing need for specially trained paid staff with a dedicated time commitment.

Since many of Iowa's charitable nonprofit organizations are small and fragilely financed, paid staff are often few in numbers and part time. Regardless of numbers of paid staff, there should be documented policies and practices defining their status and guiding their work.

**Practices**

1. Human relations policies should cover:
  - a. position descriptions
  - b. interview standards
  - c. terms and conditions of employment
  - d. compensation and benefits
  - e. training and development
  - f. performance review
  - g. promotion policies
  - h. disciplinary grounds
  - i. termination grounds and procedures
  - j. conflict resolution procedures
  - k. grievance procedure
  - l. employee protection-non discrimination, including harassment and whistle blower
2. A charitable nonprofit should carefully interview and plan the first few days of an employee's work with adequate orientation and mentoring.
3. A charitable nonprofit should provide a stimulating, flexible, and enjoyable working environment which encourages staff initiative, participation, and maximum utilization of staff skills.

4. A charitable nonprofit should invest in staff. In dealing with limited budgets give priority to paying staff adequate compensation and fringe benefits. Provide a budgeted amount for staff training that will improve skills and morale.
5. A charitable nonprofit should express appreciation and show respect for staff work well done in spontaneous as well as through formalized recognition awards.

### **C. Principle -- Volunteer Role**

Volunteerism is the hallmark of charitable nonprofit organizations. Volunteers create, govern, fund and staff charitable organizations.

#### **Practices**

1. A charitable nonprofit should regularly supervise and communicate with volunteers.
2. A charitable nonprofit should have liability coverage for insurance protection for volunteers.
3. Regular collection of information on volunteer numbers and hours should be maintained by a charitable nonprofit.
4. A charitable nonprofit should practice recruiting methods that connect with diverse populations.
5. A charitable nonprofit should have screening procedures to identify suitable volunteers.
6. A charitable nonprofit should have written policies and job descriptions for volunteer involvement.
7. A charitable nonprofit should take annual measurement of the impacts of volunteers.
8. A charitable nonprofit should have training and professional development opportunities for volunteers.
9. Training for a charitable nonprofit's paid staff working with volunteers should be conducted.
10. A charitable nonprofit should have an employee or volunteer responsible for recruitment of dedicated and committed volunteers.
11. Volunteer policies should cover:
  - a. Volunteer position description
  - b. Recruitment and placement procedures, including background checks where appropriate
  - c. Orientation
  - d. Training requirements
  - e. Time commitment
  - f. Evaluation procedure
  - g. Separation grounds and procedures
12. A charitable nonprofit should articulate the role of non-board volunteers in the operations of the organization. Charitable organizations should recognize the vital, albeit special, role of able and committed volunteers in carrying out the mission of the organization by affording them an opportunity to participate as partners rather than as adjuncts in charting and conducting the course of the organization.
13. A charitable nonprofit should provide individual praise for work well done by volunteers and hold group recognition events, including participation in the Governor' Award for outstanding volunteers.

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**VIII. FINANCING AND FUNDING****A. Principle -- Funding Essentials**

No funding, no program. Funding is central to achieving the mission successfully.

**Practices**

1. The board and staff are responsible for securing the funding needed to carry out the organization's programs.
2. A strategic plan must include a specific financial plan as to sources of funding, individuals designated to secure funding, timetable for funding, and review of funding status at every regular meeting of the board.
3. Diversity in funding sources increases organizational financial stability. Most charitable organizations derive their funding from a combination of sources including private contributions, earned income and government.
4. Prudence requires an organization to generate income beyond daily operational needs in order to build cash reserves for both capital and operational long-term needs.
5. All funding must be expended in pursuit of the organization's charitable mission which includes improved service and access to service.

**B. Principle -- Financial Accountability**

A charitable organization is accountable to its funders, its constituencies, and the public, both as to the sources and uses of funding.

**Practices**

1. Financial Audits
  - a. The board has a responsibility to have an annual audit. It is desirable to have a board audit committee which is separate from the board finance/budget committee(s).
  - b. Where the organization has total annual gross revenues in excess of \$1,000,000 or more, its financial statements should be independently audited. Where the annual gross revenue is between \$250,000 and \$1,000,000 the financial statements should be reviewed by an independent public accountant. Smaller nonprofits in Iowa with annual gross revenue below \$250,000 are encouraged to get outside assistance with and outside review of their accounting activities regularly. Nonprofits should remain aware that some funders may require audits regardless of gross revenue amounts.
  - c. The audit or financial statement should be available to all funders, government regulators and the public.
2. Fraud/Embezzlement

All charitable organizations regardless of size are vulnerable to fraud and embezzlement. The handling of funds needs to be rigorously scrutinized by the board and the staff. There should be internal controls so that no single person is responsible for receiving, depositing, and expending funds. There should be a confidential procedure for reporting fraud.

### 3. Investments

Iowa's Institutional Funds Management statute, Iowa Code Section 540A.7, sets forth the following five factors to consider when determining spending from growth in endowments of nonprofits:

- a. long-term and short-term needs of the institution in carrying out its educational, religious, or charitable purposes,
- b. its present and anticipated financial requirements,
- c. expected total return on its investments,
- d. price level trends, and
- e. general economic conditions.

### 4. Regulatory, Donor and Public Reports

- a. The organization needs to file required government reports on time and fully completed. In particular this includes the Internal Revenue Service Form 990.
- b. Regular reports should be provided government and private funders concerning expenditure of fund in compliance with the terms of the grant or gift. Charitable nonprofit organizations must be aware of the requirements of separate fund accounting for restricted grants, funds and endowments.
- c. Every organization should make available to its constituents and the public an annual report of its finances, program, current board members and officers in printed and/or website form. Disclosure of the last three years of I.R.S. Form 990 to anyone requesting it is required by law.
- d. Charitable nonprofits fundraising in Iowa must be prepared to disclose to any potential donor who requests it the costs of the fundraising in comparison to the amount of funds raised. Iowa Code 13C.

## C. Principle -- Charitable Focus

Although many types of charitable organizations are funded in part by fees for service -- e.g. hospitals and educational institutions -- they must remain primarily charitable in their overall administration.

### Practices

1. To be considered charitable, rather than commercial, organizations charging fees must demonstrate that they serve a public purpose, such as providing services to people who cannot afford to pay.
2. Charitable organizations should be entrepreneurial but must be mindful that they are subject to the fiduciary duties of care and loyalty which require a prudent and detailed action plan which the organization has the capacity to achieve.
3. Where the Internal Revenue Service considers an activity unrelated to the core mission of the organization it applies the Unrelated Business Income Tax ("UBIT") to the revenue generated from that specific activity. The organization needs to be wary that unrelated activities do not take precedence over the basic organizational mission, and that it report taxable unrelated revenues on I.R.S. form 990T and Iowa form 1120.

**D. Principle -- Financial Accountability**

Charitable nonprofits must recognize that, while the government provides vital support by granting tax-exempt status to charitable organizations, and also often provides direct funding to charitable nonprofit organizations to deliver public services, these are accompanied by restrictions and reporting requirements which the charitable nonprofit must become familiar with and comply with.

**Practices**

1. Government funding carries with it conditions, restrictions and regulations as to the use of and accounting for the funds by the charitable organization. (See, e.g., OMB Circular A-133 for federal grants) These additional public regulations must be complied with scrupulously, and they vary from governmental agency to agency. Sanctions for failure to comply can range from grant cancellation and claim for repayment to fines and imprisonment.
2. Solicitation and deployment of government funds must be consistent with the charitable nonprofit's mission, policies and practices as well as the applicable laws.

**E. Principle -- Tax Deductibility for Donors**

Charitable nonprofits must recognize and make effective the American charitable tradition which has at its core contributions by private individuals and organizations. Public policy encourages private giving by making donations tax deductible to the donor, a policy charitable nonprofits must ensure the continuance of through prevention of abuse.

**Practices**

1. A charitable organization needs an integrated private fundraising process based on a written plan setting goals, objectives, and timelines and spelling out the solicitation methods, programmatic needs, types of gifts, and the recruiting and training of volunteers and staff to implement the plan.
2. Charitable nonprofits must be aware of and comply with Internal Revenue Code provisions (see, e.g., I.R.C. Section 170). They must also refrain from aiding donors to violate the Code.
3. The charitable organization must provide donors with a written acknowledgement of donations valued at \$250 or more pursuant to I.R.C. Section 6601 and estimations of quid pro quo values in return for gifts.
4. The charitable nonprofit should acknowledge non-cash gifts with I.R.S. Form 8283, and the donor, not the charitable organization, is responsible for securing appraisals of the value of noncash contributions.
5. Charitable organizations fundraising in Iowa must comply with the Iowa Charitable Solicitation Act (Iowa Code 13C) administered by the Consumer Protection Division of the Office of the Iowa Attorney General. Iowa charitable nonprofits fundraising in other states should ensure their compliance with the fundraising regulation of each state in which they fundraise.
6. Fundraising communications should include clear, accurate, and honest information about the organization, its activities and the intended use of the funds raised.
7. While significant costs of fundraising are real, fundraising costs should be reasonable in relationship to the total operational costs of the organization.

8. A charitable organization should adopt donation policies consistent with the law and public policy as well as its mission and its ethics. These policies should list any unacceptable fund sources and gift conditions which would preclude acceptance of a gift.
9. In the case of a restricted gift, a “charity is considered to comply with a gift restriction if the charity acts in good faith, reasonably construes the terms of the restriction, and adheres to all material requirements of the restriction”. See ALI Principles of the Law of Nonprofit Organizations. Charities need to be made aware of the gift restriction. Donor language expressing a wish rather than a restriction is not binding on the charity.
10. Where a donor requests anonymity, the organization should respect the request as to the name of the donor but make available information concerning the size and purpose of the gift. Form 990, Schedule B, with its list of larger donors, may be withheld from the otherwise required disclosure of the form.
11. The organization should not sell or otherwise make available the addresses of its donors without permission of the donors. Where required by law to do so, the organization should provide full information to the designated governmental authorities.
12. The organization has the stewardship responsibility to keep donors apprised of the impact of their gifts and to respond promptly and fully to donor inquiries. General organizational information should be available through a printed or website annual organizational report.
13. The organization should designate the person(s) responsible for donor solicitation and stewardship.

## IX. COMMUNICATION

### A. Principle -- Importance of Communication

Charitable organizations are not abstractions. They are people (constituencies) interacting with each other in a variety of ways. Communication is key to effective interaction.

#### Practices

1. Communication is a form of accountability to the organization’s constituencies. It should be oriented to the constituencies and thus requires an outreach mindset.
2. A goal of a charitable nonprofit’s communication should be transparency, which includes:
  - a. continually building trust with the public by appropriate financial reporting,
  - b. communications with the public about significant contributions to the community with the charity’s funds and programs, and
  - c. strongly evident commitment to ethical behavior.
3. Communication should be strategic, integrated, and central to the organization’s functions.
4. Messages must be timely, informative, clear and forthright with openness and candor about bad news as well as good news.
5. Effective communication identifies:
  - a. the constituencies to receive the message
  - b. the content of the message to be delivered
  - c. the method of delivering the message



6. Constituencies are both internal constituents including the board, staff, and volunteers, and external constituents including the people who receive the organizations' services, the funders, the regulators, and the general public.

### **B. Principle -- Internal Communication**

Internal communication is essential to motivate, inform, and counsel people to achieve organizational excellence.

#### **Practices**

1. Effective internal communication welcomes alternative perspectives, invites and encourages participation at all levels, minimizes defensiveness, and builds and maintains camaraderie.
2. To be effective, internal communication needs to flow freely up as well as down, horizontally as well as vertically. Management needs to solicit actively, to listen carefully, and to respond respectfully to the views of internal constituents.
3. Internal constituency communication methods include policies and practice manual, open meetings, newsletters, e-mail reports, suggestion box, friendly one on one suggestion sessions, reports on meetings of the board and its committees, recognition awards and receptions for board, staff and volunteers.

### **C. Principle -- Communication to External Constituency**

External communication is essential to attract and retain users of the organization's services and to raise public consciousness, understanding, commitment to, and funding of the organization.

#### **Practices**

1. Marketing entails a plan to identify and keep in touch with the organization's external constituencies about their needs and desires and explains and promotes how the organization's programs meet those consumer needs.
2. Public Relations focuses on relationships between the organization and the public. These relationships include news information, crisis management and government relations.
3. There are several external communication objectives:
  - a. Visibility-do your publics know who you are?
  - b. Reputation-are you trusted?
  - c. Accessibility-can your publics get information quickly from you through a live and knowledgeable staff member?
4. Some of the more important external communication methods are: website, annual report, advertising, public service announcements, promotion brochures and flyers, news releases, press conferences, feature stories, special events and promotions.

### **D. Principle -- Public Relations**

Board members, staff, volunteers and friends are encouraged on their personal time to be public advocates for their charitable organizations and the entire charitable nonprofit sector at the local, state and national levels.

**Practices**

1. Organization communications should identify the organization as charitable in purpose and in action.
2. Organization should cooperate with other charitable nonprofits to inform how they collectively serve the public as charitable organizations.
3. Organization communication should enhance public awareness and understanding about the charitable nonprofit sector as a whole.
4. Organizations should identify specific public spokespersons.
5. Organizations should have a procedure for developing public statements which reflect the full range of the views of the organization's constituencies and not just the opinion of a few people.

**X. INFORMATION TECHNOLOGY****A. Principle -- Using Technology Effectively**

Proper information management is essential to a successful nonprofit organization and the fulfillment of its mission.

**Practices**

1. A charitable nonprofit should incorporate the following concepts into its information management plan:
  - a. Confidentiality of information.
  - b. Accuracy of information.
  - c. Integrity of information.
  - d. Recovery of stored/back up data.
2. A charitable nonprofit should have information systems implemented that provide timely distribution of information with a high degree of accuracy and reliability.
3. A charitable nonprofit should have policies and procedures clearly documented and distributed to its personnel regarding how the organization's information is to be stored and maintained, how the accuracy of the information will be determined, how the information is to be "backed up", and to whom the information is to be distributed.
4. A charitable nonprofit should designate at least one person within the organization to be responsible for the successful implementation of the information management plan and the annual review of the plan to ensure its efficiency and efficacy.

**B. Principle -- The Goal of Technology**

Information technology and computing assists the mission of charitable nonprofits by improving productivity and facilitating improved communication. Other benefits are: the speedy creation of letters, reports, minutes, news releases, speeches, etc.; communication by email and instant messaging, video conferencing; mailing list management, record keeping; discussion forums and Internet meetings; and financial record keeping and analysis.

**Practices**

1. A charitable nonprofit should invest in:

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- a. An effective application suite to assist its staff in the creation and maintenance of documents. At a minimum, the charitable nonprofit should purchase a word processing program.
  - b. A spreadsheet suite to prepare budgets and regular financial reports.
  - c. An accounting program to track and manage finances.
  - d. A database program to maintain member records and other records.
  - e. Voice mail, email, and Internet access for its staff and regular personnel.
2. A charitable nonprofit should have donation databases which can generate donation reports, enable you to sort your donors in a variety of ways, record multiple donation/donor details, create and sort lists of potential and current donors, and print letters, labels and a variety of reports.
  3. A charitable nonprofit should consider implementing local area networks (LAN), which allow staff members to access each others' files via their desktop computer.
  4. In addition, staff can share Internet access across all the computers on the LAN, share one central database, and enable an automated backup system for all computers on the network.
  5. A charitable nonprofit should allocate sufficient resources to train its board, employees, and volunteers in the use of the procured software and hardware.
  6. A charitable nonprofit should establish goals for the information system's physical growth and future expenditures.

### **C. Principle -- Web Site Design**

A well designed website provides a charitable nonprofit several advantages such as producing income from an e-commerce section of the website and web advertisement, publishing its ideas and writings, providing a good multimedia experience, advertising its business with an online brochure, and most important, providing information to its customers and other visitors.

#### **Practices**

1. A charitable nonprofit should do a requirements analysis for a proposed website prior to designing a website. A requirements analysis includes:
  - a. Determining host disk space and monthly traffic allowance.
  - b. Selecting a suitable web-hosting package.
  - c. Determining whether to create the pages yourself or use online wizards or a consultant.
  - d. Determining server side requirements (software, etc.).
2. A charitable nonprofit should come up with a design of the website, obtain a domain name, resolve web-hosting concerns, develop the website, promote the website, and finally define monthly maintenance tasks.
3. A charitable nonprofit should focus a considerable amount of time and energy developing a FAQ (Frequently Asked Questions) section of the website, which reduces the costs of serving your constituents, makes business information available 24-hours a day and frees up staff to better achieve the goal of fulfilling the organizational mission.
4. A charitable nonprofit should promote its website through optimizing search engine success by incorporating the best keyword phrases into the page content, determine what the major search engines are and their underlying feeds, monitoring its rankings, and list its web address ("URL") anywhere and everywhere (business cards, advertisements, etc.).

## **XI. ADVOCACY**

### **A. Principle -- Communicating to the Government**

Nonprofit organizations should individually and collectively communicate their views to government about matters which affect the delivery of their services.

#### **Practice**

1. I.R.C. 501(c)(3) organizations are free to contact and seek to influence actions of executive and administrative governmental bodies.
2. Such organizations are limited under the Internal Revenue Code to “insubstantial” activities to influence legislation with legislative bodies, but it is advisable to influence relevant legislation within those limits.
3. Charitable nonprofits are encouraged to make the 501(h) election by filing form 5768 with the I.R.S. to make calculation of when lobbying is no longer “insubstantial” clearer.
4. Organizations can provide educational information of some types about pending legislation, but charitable nonprofits need to be careful when appealing to the public generally to contact their legislator about particular legislation, “grass roots lobbying,” as it is more restricted than direct lobbying.
5. Nonprofits exempt under I.R.C. 501(c)(3) should avoid campaign activity as they are prohibited from participating in political campaigns by distributing information about or endorsing specific candidates. They can provide educational information in a nonpartisan manner about all the candidates running for a particular position. Private foundations are subject to excise taxes under I.R.C. 4945 for funding political activity.

## **XII. COLLABORATION**

### **A. Principle -- Value of Collaboration**

In its strategic planning, a charitable nonprofit organization should consider means by which it can collaborate with other organizations in order to increase the effectiveness and efficiency of its services.

#### **Practices**

Collaboration takes two forms:

- a. Merger- a statutory (Iowa Code Section 504.1101, et seq.) procedure by which two or more nonprofit corporations join together with one of the organizations as the surviving organization.
- b. Joint Ventures- a contractual method, either oral or in writing, where two or more organizations come together as peers to undertake joint activities which will enable each organization to serve the public more efficiently and effectively. Each organization maintains its corporate identity even though the joint venture may have an overarching name to identify the joint venture. A joint venture might also be described as an alliance, network or coalition.

**B. Principle -- Joint Venture Alternative**

The purposes and details of the joint venture must be carefully thought out and enumerated.

**Practices**

1. The goals of the joint venture must be clearly identified.
2. The objectives and strategies for achieving the goals must be specific.
3. It is essential to spell out the desired outcomes of the joint venture and how to measure them.
4. The organizational structure should be clear as to how the joint venture will operate and to whom it is responsible, including who makes policy, who executes, who evaluates, and how the joint venture is accountable to the participating organizations.
5. It is essential to identify what resources will be required, who will supply the resources, and how the benefits will be shared.

**C. Principle – Cost/Benefit of Collaboration**

The needs for joint ventures are many as are the types of collaborators which include other nonprofit organizations, businesses and governments.

**Practices**

1. Charitable nonprofit collaborations with other nonprofits reduce costs and improve operations.
  - a. by sharing management, financial, informational technology, and other administrative staff.
  - b. by joint marketing, public relations and promotion such as cultural alliances.
  - c. by sharing facilities.
  - d. by delivering comprehensive service.
  - e. by reaching new clientele.
  - f. by joint program planning and service delivery in common fields such as children and elders.
  - g. by joint purchasing of supplies, insurance and other products and services where quantity buying reduces costs and affords access.
  - h. by joint fundraising.
  - i. by reducing costs associated with competition.
  - j. by increasing access to capital funds.
  - k. by enhancing public advocacy for participants and the nonprofit sector as a whole.
2. Nonprofit collaborations with the business sector.
  - a. by working actively with the local chamber of commerce and economic development organization to advance the local economic and civic environment.
  - b. by working with the chamber of commerce and business organizations to create a charitable nonprofit “board bank” which identifies and trains potential board members for nonprofit boards of directors.
  - c. by businesses providing loaned employees and encouraging employees to volunteer for charitable nonprofit service.

- d. by business providing financial and computer service assistance to small charitable nonprofits.
  - e. by opening business management training programs to charitable nonprofit executives for no or low cost.
3. Charitable nonprofit collaboration with government.
- a. by increasing joint community needs assessment and planning for government funded services and programs.
  - b. by designating staff members in government agencies to work regularly with the nonprofit sector in identifying opportunities to collaborate.
  - c. by expanding grant opportunities and contract eligibility for Iowa's many charitable organizations.
  - d. by providing adequate training to assure accountability and compliance.

### **XIII. ACCOUNTABILITY AND COMPLIANCE**

#### **A. Principle -- Compliance Responsibility**

Charitable nonprofit organizations are chartered and granted tax exempt status by government to serve the public. With this public privilege comes the obligation of accountability. This accountability takes a variety of forms: good management practices, legal mandates, and ethical conduct. The obligations of charitable nonprofit organizations are defined both by government laws and regulations and by self-regulation through policies adopted by organizational peers and by the organization itself.

#### **Practice**

##### **GOVERNMENT REGULATION — federal, state, local**

1. Tort And Contractual Liability  
The concept of charitable immunity from lawsuits has been eliminated. Therefore, directors and officers are liable for organizational torts and breaches of contract where they are negligent and third parties have been injured.
2. Statutory  
A charitable nonprofit organization and its agents must comply with statutes and administrative rules which are enforceable by government and third parties.
3. Sarbanes-Oxley Federal Legislation  
Sets record retention and whistleblower protection requirements for nonprofit organization. Otherwise, this legislation applies only to for profit corporation conduct. However, the legislation suggests good practice for charitable nonprofit organizations such as the requirement of an audit committee.
4. Licensure  
Many of the services delivered by charitable nonprofit organizations require licensure of the organization and/or the personnel delivering the service e.g. hospitals, health providers, day care, nursing homes.

5. Operational regulations

Charitable solicitation, consumer fraud, Occupational Safety and Health Act (OSHA), Americans for Disability Act, wages and hours law (overtime), working conditions, ERISA and pension management and reporting requirements, anti-discrimination requirements such as civil rights legislation.

6. Grant restrictions

(other than interference with free speech) and accountability including reports and audits.

## PEER REGULATION

1. Peer Organizations create peer regulation, and charitable nonprofits should review the three forms this peer regulation takes: best practices, codes of ethics and accreditation.
  - a. Principles and Practices — “Best practices” are being identified by the various charitable nonprofit disciplinary fields and across the entire nonprofit sector at the state and national level.
  - b. Ethics Codes — increasingly charitable nonprofit groups are promulgating ethical conduct codes pertaining both to individual professional conduct (e.g. nurses, curators, lawyers) and to the conduct of the organization as a whole.
  - c. Accreditation by peers — accreditation is a formal process of examining all aspects of an organization by outsiders. The examination is pursuant to specific standards relating to all dimensions of organizational performance. It is designed to create uniformity of operations. Accreditation may be a condition for government grants and entry into a profession. Accrediting agencies are sometimes accredited by a government agency either in the executive or judicial branch. Moreover, accreditation decisions take on a quasi-legal status and can be subject to judicial review because of their economic impact.
2. Individual charitable nonprofit organizations should adopt their own principles and practices, and ethics codes.
  - a. Principles and practices — boards of directors should adopt the principles and practices that guide the organization. Their application should be monitored by the board. They should be published in a manual available to all constituencies. They should be distributed to all staff and volunteers. There should be regular staff training based on the manual. Among the issues covered in principles and practices might be equal opportunity, sexual harassment, terms of employment conditions, staff evaluation, staff promotion and internal grievance procedures.
  - b. Ethics codes — ethics require subordinating self interest in favor of the public interest. Ethics codes set a higher standard of conduct than the law. Ethics go to the essence of our beliefs and how we feel and care for others. A code of ethics demands a sense of responsibility and courtesy to others. Others come ahead of our own interests. Nonprofit ethics codes cover such issues as obeying the law, respect for the worth and dignity of individuals, diversity, fairness, openness, honesty, prudent application of organizational resources, and professional conduct in service to others.

**B. Principle -- Individual Responsibility**

The most effective means of assuring public accountability is to foster a culture of compliance at the organizational level, a culture of compliance in which it is not enough merely to adopt self-regulations, but in which self-regulation is embraced and applied in all that the organization does. People are organizations. Organizational actions are taken by people. The people of the organization are accountable for its actions.

**Practices**

1. Responsible individuals — those who carry out the work of the organization are responsible for the action of the organization — board members, officers, staff, volunteers.
2. Protection against individual liability.
  - a. Standard of care [see above at V.F].
  - b. Limited corporate liability.
  - c. Exculpatory statutes — volunteer protection statutes.
  - d. Indemnification statutes and articles and by-law clauses.
  - e. Directors' and officers' insurance.
3. Charitable nonprofits should engage in a process of compliance assurance by doing training, getting advice and doing compliance audit.
  - a. Training — board, staff and volunteers should receive regular training in government laws and regulations and in the peer and organizational policies, practices and ethical principles.
  - b. Advice — a board member or staff member should be designated as the compliance officer and should be available for advice and interpretation concerning the organization's obligations.
  - c. Audit — the board should require an annual compliance audit with a report to the board.



**For More Information Contact:**



***The Larned A. Waterman  
Iowa Nonprofit Resource Center***

130 Grand Avenue Court  
Iowa City, Iowa 52242  
Phone: 319.335.9765  
Toll free: 866.500.8980  
Web: <http://inrc.continuetolearn.uiowa.edu>  
Email: [law-nonprofit@uiowa.edu](mailto:law-nonprofit@uiowa.edu)



***Iowa Secretary of State***

Lucas Building, 1<sup>st</sup> Floor  
Des Moines, Iowa 50319  
Phone: 515.281.5204  
Web: <http://sos.state.ia.us>  
Email: [sos@sos.state.ia.us](mailto:sos@sos.state.ia.us)



***Iowa Commission on Volunteer Service***

200 East Grand Avenue  
Des Moines, Iowa 50309  
Phone: 515.242.4764  
Web: <http://www.volunteeriowa.org>  
Email: [icvs@iowalifechanging.com](mailto:icvs@iowalifechanging.com)