

Strong Ethics Policy Creates a Culture of Transparency

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Almost daily, we are faced with making ethical decisions in our personal and professional lives. This is particularly true for those of us who work at foundations. Foundation board members and staff are often subject to intense pressure to provide funds for particular organizations. Board members of nonprofits are frequently expected to solicit funds from various foundations as part of their board responsibility, while at the same time holding governance positions on foundation boards. How can foundation board and staff

members ethically deal with these kinds of situations? A vigorous conflict and fairness policy can help grantmakers avoid engaging in behaviors that give even the appearance of conflict.

The need for a strong conflict of interest policy became clear in the early days of the Health Care Foundation of Greater Kansas City (HCF). After the November 2002 purchase of Health Midwest, a major regional nonprofit health care provider in Missouri and Kansas, by HM Acquisition, LLC, a subsidiary of Hospital Corporation of American (HCA), the foundation came into being with the appointment by Missouri Attorney General Jay Nixon of the foundation's 25-person board of directors. This distinguished group of community leaders represented a diverse and inclusive group of citizens from our six-county service area in western Missouri and eastern Kansas. Virtually every board member had served on or was serving on boards of nonprofits that would be requesting money from the foundation.

After much research and discussion with foundations across the country, the board decided a transparent and fair ethics policy for both board and staff members must be instituted before any grants could be issued.

CONFLICT OF INTEREST POLICIES

A conflict of interest policy for foundation board members often includes the following components:

- a general statement of the foundation's values and commitment to avoiding any actual or potential conflicts of interest in grantmaking or business operations;
- requirements for what type of relationships or interests must result in disclosure;
- explanation of the form of disclosure including how a disclosure of interests is to be made, when, and how often it should be updated;
- explanation of when to abstain from voting and how to so note in board minutes;
- explanation of when a board member should be required to excuse himself from a meeting;
- a requirement that a board member must practice confidentiality of acquired information;
- a statement that the policy will be reviewed annually; and
- implementation of the policy by the board's governance or other designated committee.

Source: Grantmakers In Health, "Can board members vote on grants for organizations with which they have long histories or are intimately involved?" <www.gih.org/faq3994/faq_show.htm?doc_id=110835>.

ELEMENTS OF THE POLICY

HCF's conflict of interest process requires that all board members and employees submit to the board secretary an "Attestation and Statement of Personal Interest." This statement asks the individual to list all employment, business, or investment and nonprofit organization affiliation conflicts. Board and staff members must also list any conflicts of their spouses, siblings, children, daughters-in-law, sons-in-law, grandchildren, parents, parents-in-law, or grandparents. These statements are kept on file and are updated at least annually. Community Advisory Committee (CAC) members also voluntarily agree to complete the statement.

Board members who are uncompensated consultants to groups must generally consider themselves as having a conflict if they engage in regular and substantial discussions with such

organizations over a period of time. Casual conversations or one-time meetings with organizations do not generally put a board member in a conflict situation, as long as the board member is not attempting to solicit business from the organization.

Prior to each board and committee meeting at which grant proposals are to be discussed, the president and CEO distributes a document setting forth all conflicts of interest. Board and staff members who have conflicts are not allowed to vote or participate in any discussion about the conflicted agency before, during, or after any official board or staff review, including informal or phone conversations outside of board and committee meetings. Moreover, conflicted board and staff members are required to leave the room during any portion of the meeting when the grant proposal or contract is being discussed. Staff members are also required to follow this same policy during staff grant review sessions.

In developing the policy, it became clear how difficult it would be to determine in advance every possible conflict situation. The foundation's bylaws therefore allow for the referral of such situations to the board's executive committee by a board or staff member to determine whether a conflict is in fact present. In such events, the executive committee's ruling is final.

POLICY IN PRACTICE

The guiding principle of our foundation's ethics policy is to always avoid even the appearance of a conflict of interest where a board or staff member may be called into question. Grantees deserve a level playing field and an assurance that it is the quality of the grant proposal that determines the success of obtaining funding, not who they know on the board or staff.

In addition to helping ease the mind of the agencies applying for grants, this policy also relieves board members of the pressure of trying to steer money to organizations with which they are affiliated. After the review process is completed, board members can go back to these organizations and honestly report that they had no input on the success or failure of the grant application.

In every round of grants that the board has approved, we have had board members recuse themselves from participating in discussion and voting. In fact, in the first round of grants, the board chair, board vice chair, chair of our finance and administration and logistics committee were all members of board of nonprofits that were not approved for funding.

Full disclosure is not the foundation's only fairness safeguard. HCF recruits subject experts from surrounding states to objectively review grant applications and submit recommendations. The foundation also observes Missouri's sunshine law by opening all board and committee meetings to the public. In our most recent round of grants, more than 40 representatives of applying agencies attended the board meeting and witnessed the voting and discussion.

In addition, applicants whose proposals are not funded are invited to attend one-on-one sessions with an HCF staff member. About 70 percent of unsuccessful grant applicants take advantage of this opportunity.

REFLECTIONS

Although stringent, the policy is a success. The board and the foundation's independent community advisory committee overwhelmingly agree (95.2 percent) that the foundation's conflict of interest policy is appropriate and has served to keep the grant process transparent and fair.

The community organizations that are seeking funding agree. Recently, an independent university researcher contacted HCF board members, as well as successful and unsuccessful grant applicants to determine how to improve the foundation's grant review process. All parties gave HCF high marks for transparency, particularly applauding its practices of conducting open meetings, providing feedback to unsuccessful grant applicants, and using reviewers from outside the area who are not familiar with the local agencies applying for funds.

In hindsight, HCF was very fortunate to receive advice from other funders to initiate this conflict of interest policy before we began our grantmaking activities. Without question, it would have been much more difficult to implement the policy had we not established a culture of transparency before a dime went out the door. Sooner or later all foundations will need to consider moving toward this kind of ethics policy to avoid potentially embarrassing situations that oftentimes become newsworthy.

Having a grant process that is transparent, exceedingly ethical, fair, and easy to access hopefully gives our community a resource they can trust and respect to do what is right...always.

FOR FURTHER INFORMATION

A copy of the ethics policy described in this article can be downloaded from GIH's Web site at: http://www.gih.org/faq3994/faq_show.htm?doc_id=110835

Other sample documents and policies are also available at www.gih.org including bylaws, committee charters, compensation for board and staff, job descriptions, grant agreements, and policies on such issues as indirect costs, confidentiality, and small grants. Click on "Foundation Operations" from the orange box on the right hand side of the home page to find these and other resources.

VIEWS FROM THE FIELD is offered by GIH as a forum for health grantmakers to share insights and experiences. If you are interested in participating, please contact Anne Schwartz, GIH's vice president, at 202.452.8331 or aschwartz@gih.org.