How to Handle Ethical Issues?

1. Setting the Stage – Is it ever right to lie?
   - Common Rationalizations
   - Industry overview of Ethical Guidelines
   - Examples – Matching Gifts and DAFs
   - Overarching Recommendations

2. Decision-Making – How do you handle ethical dilemmas?
   - Decision-Making Tool

3. Accountability and Sample Ethical Dilemmas – How do you guide effective execution?
   - Common Ethical Dilemmas Discussion
“Why are you here? What do you seek to gain from this presentation?”

- As the “last line of enforcement,” how to avoid conflict; ensure compliance
- Best practices; gain efficiency
- Campaign preparation; reinforcement
- Protecting donors
- Using resources on website
- New Technologies/Social Media – What/How do we maintain ethical standards?
- Sharing challenges/resolutions
- Establish guidelines to protect the university

Polling Question #1

Along which theme are your most pressing ethical dilemmas?

- Rules and regulations
- Protocol
- Donor rights
- Institutional values
Polling Question #2

Do you have ethical guidelines as well as policies and procedures in place at your organization?
Yes
No
Partially
In Planning Stage

Common Rationalizations

- "If it's necessary, it's ethical."
- "If it's legal and permissible, it's proper."
- "I was just doing it for you."
- "It doesn't hurt anyone."
- "It can't be wrong because everyone is doing it."
- "It's okay if I don't gain personally."
- "I've got it coming."
- "I can still be objective."
Questions Categorized

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<th>Institutional Specific to your institutional procedures or processes</th>
<th>Professional Specific to AASP Ethics Statement</th>
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<td>• Gift acceptance docs</td>
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<td>• What kind of relationship should we have with a donor?</td>
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Available Resources

(see Links section on screen)

• AASP Ethics Statement
• AFP Code of Ethical Principles and Standards
• CASE Statement of Ethics
• Donor Bill of Rights
• Others
Is there a policy in your operation concerning ethical behavior, confidentiality, and reporting of conflicts?

Why a code of ethics?
- Express a shared vision of your institution’s beliefs, culture and values
- Shared vision looks in two directions: inward to staff and volunteers, and outward to the constituents
- Code of ethics serves as a set of accountability standards against which the board and the institution can be measured
- Code expresses norms of conduct, not a criminal code

What do your present guidelines say?
- Do you have a clearly articulated vision and mission statement?
- Do you have a written ethics code?
- Have those effected by the code had an opportunity to contribute to the creation?
- Is there a gap between your institution’s existing values and those to which you aspire?
- Is there a gap between values of management and staff members?
AASP Ethics Statement

Advancement Services Professionals, by virtue of their responsibilities within the advancement community, establish, affirm and articulate the best standards of ethical practice, both as individuals and members of professional staff at their respective nonprofit organizations. They have a special duty to exemplify the best qualities of their institutions and to observe the highest standards of personal and professional conduct. By example, Advancement Services professionals encourage their colleagues to embrace and practice these ethical principles and standards.

Areas covered:
- Confidentiality
- Integrity
- Service
- Practice

http://www.advserv.org/AASP_Ethics_Statement

AFP Code of Ethical Principles and Standards

Adopted 1964; amended Sept. 2007

The Association of Fundraising Professionals (AFP) exists to foster the development and growth of fundraising professionals and the profession, to promote high ethical behavior in the fundraising profession and to preserve and enhance philanthropy and volunteerism. Members of AFP are motivated by an inner drive to improve the quality of life through the causes they serve. They serve the ideal of philanthropy, are committed to the preservation and enhancement of volunteerism; and hold stewardship of these concepts as the overriding direction of their professional life. They recognize their responsibility to ensure that needed resources are vigorously and ethically sought and that the intent of the donor is honestly fulfilled. To these ends, AFP members, both individual and business, embrace certain values that they strive to uphold in performing their responsibilities for generating philanthropic support. AFP business members strive to promote and protect the work and mission of their client organizations.
CASE Statement of Ethics

Institutional advancement professionals, by virtue of their responsibilities within the academic community, represent their colleges, universities, and schools to the larger society. They have, therefore, a special duty to exemplify the best qualities of their institutions and to observe the highest standards of personal and professional conduct.

In so doing, they promote the merits of their institutions, and of education generally, without disparaging other colleges and schools.

Their words and actions embody respect for truth, fairness, free inquiry, and the opinions of others.

They respect all individuals without regard to race, color, sex, sexual orientation, marital status, creed, ethnic or national identity, handicap, or age.

They uphold the professional reputation of other advancement officers and give credit for ideas, words, or images originated by others.

They safeguard privacy rights and confidential information.

They do not grant or accept favors for personal gain, nor do they solicit or accept favors for their institutions where a higher public interest would be violated.

They avoid actual or apparent conflicts of interest and, if in doubt, seek guidance from appropriate authorities.

They follow the letter and spirit of laws and regulations affecting institutional advancement.

They observe these standards and others that apply to their professions and actively encourage colleagues to join them in supporting the highest standards of conduct.

The CASE Board of Trustees adopted this Statement of Ethics ... in Toronto on July 11, 1982...

Donor Bill of Rights

- Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:
- To be informed of the organization’s mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for the intended purposes.
- To be informed of the identity of those serving on the organization’s governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
- To have access to the organization’s most recent financial statements.
- To be assured their gifts will be used for the purposes for which they were given.
- To receive appropriate acknowledgment and recognition.
- To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.
- To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
- To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.
- To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
- To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.
- The text of this statement in its entirety was developed by the American Association of Fund-Raising Counsel (AAFRC), Association for Healthcare Philanthropy (AHP), Council for Advancement and Support of Education (CASE), and the Association of Fundraising Professionals (AFP), and adopted in November 1993.

CASE Updating Ethical Considerations in Today’s Climate

Frequently Asked Questions

- How should universities make decisions about whether or not to accept donations?
- What factors should an institution consider?
- What due diligence should an institution do before accepting a gift?
- What can or should a donor expect in return for a gift?
- How can institutions avoid real or perceived conflict of interest when accepting a gift?
- What are the implications for universities and fundraisers at a time when philanthropic gifts are becoming extremely important to the financial health of institutions? Will the need for private support cause institutions to be less careful in the vetting of potential gifts?
- What is CASE’s role in ensuring that institutions make wise decisions?

(http://www.case.org/Samples_Research_and_Tools/Ethics_Resources_and_Issues/Perspectives_on_Ethical_Decision-Making_in_Fundraising.html)

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Independent Sector

Statement of Values and Code of Ethics for Nonprofit and Philanthropic Organizations

I. Introduction - As a matter of fundamental principle, the nonprofit and philanthropic community should adhere to the highest ethical standards because it is the right thing to do. As a matter of pragmatic self-interest, the community should do so because public trust in our performance is the bedrock of our legitimacy. Donors and volunteers support charitable organizations because they trust them to carry out their missions, to be good stewards of their resources, and to uphold rigorous standards of conduct...

(See all 7 pages...)

INDEPENDENT SECTOR is the leadership forum for charities, foundations, and corporate giving programs... www.independentsector.org
**Independent Sector’s “Checklist”**

**Accountability Checklist**

1. Develop a Culture of Accountability and Transparency  
2. Adopt a Statement of Values and Code of Ethics  
3. Adopt a Conflict of Interest Policy  
4. Ensure that the Board of Directors Understands and Can Fulfill Its Financial Responsibilities  
5. Conduct Independent Financial Reviews, Particularly Audits  
6. Ensure the Accuracy of and Make Public Your Organization’s Form 990  
7. Be Transparent.  
8. Establish and Support a Policy on Reporting Suspected Misconduct or Malfeasance (“Whistleblower Protection Policy”)  
9. Remain Current with the Law

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**At what point do you begin discussion about ethical behavior and confidentiality issues?**

- During interviews?  
- New employee orientation?  
- When a problem arises?
Practical Examples

Responsibilities of Companies Sponsoring Matching Gift Programs

- Adopt a policy and communicate it
- Eligibility of potential recipient institutions
- Eligibility of donors
- Nature of contributions eligible for matching
  - Max/min for donor, over time, max to institution
  - Non-monetary (art, personal property, stock, donated labor)
  - Non-charitable parts
    - Benefits received
    - Deferred giving
    - Irrevocable life insurance
Responsibilities of Companies Sponsoring Matching Gift Programs (cont.)

- Payment schedule
- Contributions restricted for certain uses
- Company gifts restricted for certain uses
- Multiple matching – other donor matches
- Make public the policy
- Administration
  - Specific Program Officer
  - Screen own donors and administer own program
  - Matching gift program administrator
    - Maintains channels of communication
    - Indicates changes
    - Clarifies exceptions not in guidelines
- Minimize complexity of procedures
  - Keep administrator costs to a minimum
  - Include dates, names, amounts for easier accounting
  - Parallel rules of other companies to reduce costs

Responsibilities of Recipient Institutions and Donors

- Acceptance of goals and policies of company matching gifts programs
  - Conditional grant programs = matching gift
- Proper internal controls
  - Board responsibility (fulfill mission)
  - CEO (internal controls)
  - Officer responsibility
    - Verify all contributions before matching gifts requested
    - Maintain auditable records
    - Certify donor gifts
    - Available for questions
    - Institutionally related foundations
    - Same as institutions
Responsibilities of Recipient Institutions and Donors (cont.)

- Donors
  - Know rules
  - Learn restrictions
  - Know ineligibility of self/institutions

- Religious and political purposes
  - Legal and moral obligations to determine policy adherence
  - Adequate financial safeguards
  - Full disclosure by institutions receiving funds – tax exempt
  - IRS 990
  - Audited documents

Donor Advised Funds

1. Let’s look a couple of FAQ’s.
2. Let’s review some general information about DAF’s.
3. Let’s drill down and answer why DAF’s now?
4. Let’s investigate ethical handling of DAF gifts.
Two questions often heard

- What benefits are the donor and the DAF entity getting? (What is the purpose of donating through this procedure? Wouldn’t it be easier just to send the gift directly to an organization?)

- Why can donors recommend gifts to a specific event? (If it wasn’t for their money the DAF entity wouldn’t exist, right?)

Some general information about DAF’s

- A donor sends an asset to a qualified tax-exempt arm of an organization (yes - Fidelity, Vanguard, etc.) AS A DONATION TO THAT ENTITY (and get charitable benefit and tax receipt for it).
- The assets are now under the name, and control, of that entity.
- The donor contacts the entity and ADVISES them to make a gift to a qualified nonprofit organization. (They make money managing the funds.)
- The entity is the legal donor.
- Pledge payments - no way because the donor gets a second charitable receipt if we do this for the same money. This is also true for gifts from Family (private) Foundations but for a different reason - self-dealing.
From the IRS:

"A charitable pledge is an obligation of the donor to give money or property to a charity at a future time. Where a charity (including a charitable organization of which a donor advised fund is treated as a component part) relieves a donor of a substantial obligation by satisfying the donor's pledge, the charity is providing the donor with an impermissible benefit. Accordingly, a donor's charitable pledge may not be fulfilled by a single payment or a series of payments from the charity."

In other words - it is income to the individual. There are fines from the IRS for the donor, organization and processor.

Why DAF’s now?

- Donor-advised funds are benefiting from small family foundations’ closing or suffering drops in endowment assets as the costs and administrative burden of running the foundations have become too great.
- A DAF can also be an effective alternative to the donor's private foundation because it can eliminate the burdens of a private foundation and reduce administrative expenses — with no ongoing legal and tax fees — all with the potential for higher tax deductions.
At Press Time: “Fund Assets Soar While Grants Grow Only Slightly”

- Grants to charities from donor-advised funds grew by just 1.3 percent in 2010, even while assets held by the funds rose by more than 12 percent.
- Last year the funds held nearly $30 billion in assets.
- Donors contributed 25 percent more money to the funds in 2010 - $7.7-billion – than in 2009.

- National Philanthropic Trust Study of 478 Charities
Promote ethical handling of DAF gifts

- We need to have forthright conversations with our donors, fundraisers, administrators and support staff to ensure our values are being upheld and not compromised.

- AASP has a best practice entry on our site for gift processing that outlines in detail the rules and regulations that guide how we handle and process donor advised fund gifts. If you would go to our website and click on proposed best practices or use this link, you will be able to review and make comments before the content is approved and moved to the member only section of the website.

Overarching Recommendations

- Establish written policies and procedures

- Review on a regular basis

- Develop a plan for responding to situations that need special consideration
Some examples of policies and procedures for establishing guidelines, resolving conflicts of interest and protecting information

- Confidentiality
- Professional Practice
- Stewardship
- Conflict-of-interest
- Reporting
- Decision-making structure

How do you handle ethical dilemmas?
Decision-Making Tool

• Ten principles for ethical decision making

• How do you remind associates when they stray from the straight and narrow path?

Ten Principles for Ethical Decision Making

1. Honesty
2. Integrity
3. Loyalty
4. Fairness
5. Kindness
6. Respect
7. Good Citizenship
8. Excellence
9. Accountability
10. Responsibility
What’s Missing? (Please type in your responses.)

How do you remind associates when they stray from the straight and narrow path?

- Ethical Decision-Making Tool
  - Prepare for Discussion
    - Understand the facts
    - Identify practical, legal and ethical issues
Prepare for Discussion:
• Understand the facts
• Identity practical, legal, and ethical issues

**Ethical Decision-Making Tool**

- Is it the truth?
  - Yes
  - Is it fair/equitable?
    - No
    - Will it build goodwill?
      - No
      - Consider and address four factors that impede ethical decision making:
        - Self-indulgence
        - Self-protection
        - Self-deception
        - Self-righteousness
        - Go back to Framework
      - Yes
    - Yes
  - Yes

**Framework for Ethical Decision-Making**

- Clarify the problem
- Formulate viable alternatives
- Spot the issues to determine ethical principles involved
- Evaluate available information
- Evaluate costs, benefits, and risks
- Reach for a synthesis
- Weigh conflicting considerations
- Decide what to do
- Decide how to do it
- Monitor the consequences and be open to change

Did you follow the Golden Rule?

- Yes
  - Write it up

- No
  - Go back to Framework

Front page of paper?

- Yes
  - Could you tell your grand mother or children?
    - Yes
      - Go back to Framework
    - No
      - Yes

Decision Tool continued...

- Framework for Ethical Decision-Making

- Clarify the problem
- Formulate viable alternatives
- Spot the issues to determine ethical principles involved
- Evaluate available information
- Evaluate costs, benefits and risks
- Reach for a synthesis
- Weigh conflicting considerations
- Decide what to do
- Decide how to do it
- Monitor the consequences and be open to change
Four Questions in Ethical Decision-Making

- Is it the truth?
- Is it fair (equitable) to all concerned?
- Will it build goodwill?
- Will it be beneficial to all concerned?

Consider 4 Factors that Impede Ethical Decision-Making

- Self-indulgence
- Self-protection
- Self-deception
- Self-righteousness
Decision Tool continued...

- 3 Tests for Ethical Decisions:
  1. Did you follow the Golden Rule?
  2. What would it look like on the front page of the newspaper?
  3. Can you tell your grandmother or children?

Accountability and Ethical Dilemmas
What Defines Accountability?

Questions to which you need to be able to answer “YES” for courtesy and accountability to the Donor

- Do they know where their money goes?
- Do they know how much it costs your organization to raise $1?
  - Do they know what the “split” is for monies raised?
- Do they know about your “gift tax,” if any?
- Do you provide them with financial reports?
- Do you have an ‘open door’ policy where they can contact you with questions/concerns?
- Do you track how they wish to be acknowledged?
- Do you send them annual endowment reports?

Sample Questions/Issues

1. Bringing donors from past employers to your present place (AFP Code)
2. A number of the staff have mentioned their anxiety about what they can or cannot say to friends and family or in public, including when and with whom they can voice an opinion, either positive or negative.
3. What information can fundraisers share with potential donors about other donors (what is public information that can be shared)?
4. What is appropriate for us to put on or “like” via Facebook or other social media sites?
5. How much prospect info can we share with volunteers?
More Questions or Issues for discussion? (Please type in your responses.)

Wrap-up -- How to Handle Ethical Issues

1. Set the Stage - Is it ever right to lie?
   - Have a policy for your organization
   - Refer to national resources

2. Use the Decision-Making Tool
   - Remember the Ten Principles
   - Confront those who stray from expectations
   - Ask the 4 questions in ethical decision-making
   - Consider 4 factors which impede ethical decisions

3. Keep Ethics discussions alive – use case studies, etc.
Resources

- AASP Ethical Guidelines (http://www.advserv.org/AASP_Ethics_Statement)
- AFP Code of Ethics (http://www.afpnet.org/tier3_cd.cfm?folder_id=898&content_item_id=9988)
- CASE Ethics (http://www.case.org/Samples_Research_and_Tools/Ethics_Resources_and_Issues.html)
- CASE Frequently Asked Questions (http://www.case.org/Samples_Research_and_Tools/Ethics_Resources_and_Issues/Perspectives_on_Ethical_Decision-Making_in_Fundraising.html)
- Public Relations Society of America Code of Ethics (http://www.prsa.org/AboutPRSA/Ethics/ident=eth3)
- Independent Sector Code of Ethics (www.independentsector.org)
  - (http://www.independentsector.org/members/code_ethics.html)
  - (http://www.independentsector.org/issues/accountability/Checklist/index.html)

Resources cont.

AASP Draft Best Practices/Records Management/Donor Advised Funds

(http://www.advserv.org/EmailTracker/LinkTracker.ashx?sellId=kdyrlK08SKr7P2oPi2AOcN4hHMLmduvYrk%2fYjim4aw15OXMEw4Onw19QxmmqsNJ)
Thank you, and have an ethical day!

Ethics@advserv.org

Lynne D. Becker
ldbecker1@earthlink.net

Lisette D. Clem
lclem@bryant.edu