

Nonprofit Leaders Debate Proposed Principles for Self-Regulation

By Suzanne Perry
Chronicle of Philanthropy
February 8, 2007

A proposal urging charities and foundations to adopt a set of principles to govern ethical behavior has sparked a debate over how far-reaching such standards should be and whether self-regulation is the best way to curb abuses.

The proposal, which was developed by nonprofit leaders, outlines 29 principles dealing with legal compliance, effective governance, financial oversight, and responsible fund raising. It covers issues such as whistleblower protection, the structure of boards, executive pay, and treatment of donors.

The proposal has been downloaded more than 7,000 times, and more than 120 groups and individuals have submitted comments, said Diana Aviv, president of Independent Sector, a coalition of charities and foundations in Washington that is leading the effort to develop the proposals.

Many people complained that the original deadline for comments, February 2, was too soon since the guidelines were released just last month, Ms. Aviv said, so the group that is drafting the principles, the Panel on the Nonprofit Sector, will open a new comment period after it meets soon to discuss the draft report.

The panel, composed of the heads of 24 major foundations and charities, began working with the Senate Finance Committee after it expressed concern about alleged wrongdoing by charities, foundations, and donors. The group offered advice to lawmakers when they were devising a package of laws, passed last summer, to fight abuses. It now has turned to issues it believes can be dealt with through self-regulation.

The 29 principles, which would apply to charities with at least \$1-million in annual revenue and foundations with at least \$25-million in assets, were drawn up by an advisory group headed by Joel L. Fleishman, professor of public policy studies and law at Duke University, and Rebecca W. Rimel, president of the Pew Charitable Trusts, in Philadelphia.

'Complex Question'

Not everyone agrees that self-regulation is the best way to make organizations more accountable.

"Although this effort by the Independent Sector is commendable, instead of focusing on self-regulation we need to first improve implementation of current regulations and address the loopholes and inadequacies in our current legislation," Mary M. Lassen, interim executive director of the National Committee for Responsive Philanthropy, a philanthropy watchdog group, said in an e-mail message. The committee has not yet submitted comments on the principles.

Other nonprofit officials questioned how the 29 principles would be enforced. "The title is misleading because this document deals with self-government and not self-regulation," said Putnam Barber, a consultant and editor of The Nonprofit FAQ, a Web guide to nonprofit issues. He said the document does not offer any tools for correcting bad behavior. "What we need is some way the good guys can deal with the bad guys without relying on the government."

Ms. Aviv said the issue of how to put the principles into action was "a more complex question" that the panel would now consider. She noted that some types of charitable institutions already have elaborate self-regulation or accreditation systems, such as hospitals, universities, and evangelical churches.

"There are many, many questions about how do we respect what exists and build upon [that] and make sure we are reaching for the highest possible baseline of good practice."

Call for Flexibility

Meanwhile, nonprofit leaders are dissecting the recommendations, with some calling for tougher rules and others for more flexibility.

Ms. Aviv said the panel decided not to make the comments submitted by the public available to journalists or others to make it easier for groups to modify their positions if necessary to build a consensus.

Ms. Aviv said one issue that received a high number of comments dealt with how often board members should meet. The draft principles say that boards of charitable organizations should meet at least three times a year, but some small groups argued that that was not always practical, she said.

The Philanthropy Roundtable, an association of grant makers in Washington, complained about the board requirement, as well as about proposals that boards have a minimum of five members and that board members generally serve without compensation.

"These proposals unnecessarily restrict the ability of donors and trustees to use their best judgment in how to carry out their charitable objectives," the group said in its written comments.

Another principle that drew strong comments was one calling on charitable organizations to make information about their operations — including methods used to evaluate the outcomes of work — widely available to the public, such as by posting it on a Web site, Ms. Aviv said.

She said that while groups supported the idea of openness, some questioned how much they should be required to reveal on their Web sites, noting that they were private groups with a public purpose, but not government agencies.

"The autonomy and independence of organizations is a central part of their work," she added.

A Tough Stance

Some groups wanted the principles to be stricter, however. The National Council of Nonprofit Associations, a network of state and regional nonprofit associations, noted that the committee recommended that all nonprofit board and senior staff members be required to disclose potential conflicts of interest, but did not ask boards to take any particular action once conflicts are disclosed.

The council is also unhappy with the language on executive compensation, said Erica Greeley, the group's deputy director.

The report cites federal tax law requiring nonprofit groups to pay "reasonable compensation," or the amount that would be paid for positions at similar nonprofit or for-profit groups.

The council says boards should set executive pay in a way that maintains public trust, which means not necessarily tying it to practices in the for-profit world. Ms. Greeley noted that the 29 principles would apply only to large nonprofit groups and said additional recommendations may be needed to cover "the majority of the sector."

The draft principles can be viewed on the Independent Sector Web site.

© 2007 Chronicle of Philanthropy. All rights reserved.