 

**Accountability Self-Assessment for Staffed Private Foundations**

**GOVERNANCE**

This self-assessment tool is designed to help you determine if your staffed private foundation (family, independent or corporate) is complying with key federal laws and regulations and is engaging in generally recommended good practices for being accountable to the public. Addressing issues of accountability is an ongoing process for an organization, and this tool is designed to help organizations with that process.

This Governance tool is for private foundations with one or more full-time or part-time staff people. If your foundation is not staffed, please use the accountability self-assessment tool for unstaffed private foundations.

Complete directions for how to use this tool are provided in a separate document.

Please note that this self-assessment tool is designed to allow some flexibility in how it is used and interpreted, since not all of the practices listed in the self-assessment tool will be applicable to every foundation, particularly smaller foundations. But the tool provides a solid framework to help foundations assess how well they are achieving their goals to be ethical and accountable organizations.

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| Foundation Name: |  |
| Date(s) of Self-Assessment: |  |
| Name and Title of Person(s) Conducting  Self-Assessment: |  |
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| **Governance** |

This section focuses on the work of a foundation’s directors/trustees regarding their responsibilities under the law; how they are selected, trained and compensated; and how they oversee the foundation’s charitable purpose.

**Level 1 – Legal Compliance**

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| ***Board Fiduciary Duties*** | Yes | No | NA |
| 1. We have a designated board of directors or trustees that is responsible for governing the foundation’s affairs. |  |  |  |
| 2. We have taken steps to ensure that our board members are aware of, fully understand and fulfill their fiduciary **duty of care**, devoting the time, attention and resources necessary to understand and prudently oversee the foundation’s affairs. |  |  |  |
| 3. We have taken steps to ensure that our board members are aware of, fully understand and fulfill their fiduciary **duty of loyalty**, setting aside personal or conflicting interests and acting solely in the best interest of the foundation when making a decision or acting on behalf of the foundation. |  |  |  |
| 4. We have taken steps to ensure that our board members are aware of, fully understand and fulfill their fiduciary **duty of obedience**, obeying all state and federal laws pertaining to foundations and acting in furtherance of the foundation's charitable purposes. |  |  |  |
| 5. Board members work to protect, preserve, invest and manage the foundation’s assets consistent with donor intent and restrictions. |  |  |  |
| 6. Board members investigate any warnings or reports of officer or employee theft or mismanagement and report misconduct to the appropriate authorities, consulting an attorney or other professional for assistance as appropriate. |  |  |  |
| 7. We have policies and procedures in place to protect the confidentiality and privacy rights of people connected to the organization (grantees, grant applicants, employees, volunteers and others), consistent with applicable law and our fiduciary duties. |  |  |  |
| 8. Board members are elected as outlined in our charter or bylaws, as applicable. |  |  |  |
| 9. Our board size complies with state law and our articles of incorporation and bylaws, as applicable. |  |  |  |

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| ***Foundation Self-Dealing*** | Yes | No | NA |
| 1. Our board and managers have identified and know who our disqualified persons are. |  |  |  |
| 2. Our board carefully evaluates every transaction between the foundation and a disqualified person. |  |  |  |
| 3. We do not engage in any self-dealing transactions between the foundation and any disqualified persons, including the following:  Do not sell, exchange or lease property between the foundation and a disqualified person, including paying any kind of rent to a disqualified person.  Do not lend money or extend credit to a disqualified person.  Do not transfer foundation assets or income to, or for the use or benefit of, a disqualified person.  Do not reimburse the personal expenses (as opposed to foundation-related business expenses) of a disqualified person.  Do not transfer or furnish goods, services or facilities between a disqualified person and the foundation for a fee.  Do not satisfy a disqualified person’s personal obligations to others, including personal charitable pledges.  Do not pay money or give property to government officials.  Do not purchase tickets to a charitable fundraising event and provide them to any disqualified person (unless attendance is part of a grantee evaluation or review).  Do not pay excessive compensation to a disqualified person for performing necessary and recognized personal services for the foundation (legal, accounting, investment, executive staff services). We rely on comparable data to determine a reasonable compensation level, and adequately document its determination.  Do not pay for the travel expenses incurred by the spouse or children of a foundation employee or board member (unless they are also a foundation manager or employee or independently perform necessary and recognized personal services for the foundation).  No disqualified persons use a foundation credit card for personal expenses, even if they later reimburse the foundation for the expenses. |  |  |  |
| 4. If we are a corporate foundation, the foundation has not paid the parent company directly for any resources (office space, equipment, supplies, personnel, etc.) other than for reasonable expenses for personal services (legal, accounting, investment, executive staff services). |  |  |  |

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| ***Board Compensation*** | Yes | No | NA |
| 1. If we have a policy to compensate board members for board service, we have taken steps to ensure that the compensation is reasonable and not excessive by relying on comparable data prior to making a determination of compensation; adequately documenting the basis for the board’s determination; and ensuring that the compensation is based on the functions or services required and actually performed by board members, the level of skill and experience necessary for them to fulfill their duties, and the amount of time they spend in fulfilling their duties. |  |  |  |

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| ***Conflicts of Interest*** | Yes | No | NA |
| 1. We have a written conflict of interest policy to address when our foundation engages in any contracts or transaction that are not self-dealing between a board member, a family member of a board member, or an organization in which the board member has a material financial interest.1 |  |  |  |
| 2. We require every staff and board member to annually complete and submit a conflict of interest disclosure form, in which they acknowledge they have received, read, understood and agreed to comply with the policy and they disclose any actual or potential conflicts of interest in making a particular grant, investment, contract, payment or other applicable transaction. |  |  |  |

1 The law does not require a private foundation to have a conflict of interest policy, but it would be difficult to achieve or demonstrate compliance with many provisions of tax law without having such a policy in place. As an indication of the growing importance of having a conflict of interest policy, the IRS has revised its application form for tax-exempt status (Form 1023) to specifically ask whether an applicant has adopted a conflict of interest policy.

**Level 2 – Good Practices for Accountability**

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| ***Board Management*** | True | Mostly True | Some- times True | Never True | NA |
| 1. Board members actively participate in governing the foundation (e.g., attend board meetings, evaluate reports, read minutes, review the chief executive's performance and compensation). |  |  |  |  |  |
| 2. Our board holds regular meetings each year, as frequently as needed to fully and adequately conduct the business of the foundation, including at least once a year in person, and all board members receive proper notice of these meetings. |  |  |  |  |  |
| 3. Written minutes are taken at every board meeting to accurately reflect discussions and actions taken at meetings, and are distributed to board members and formally approved at a subsequent board meeting. |  |  |  |  |  |
| 4. All board members have access to, and general knowledge of, the foundation’s books, financial records, history and governing documents. |  |  |  |  |  |
| 5. A statement of guiding principles has been approved by our board, included in staff and board orientations, and made readily available to the public. |  |  |  |  |  |
| 6. Our board seeks professional legal and accounting advice when needed to support compliance. |  |  |  |  |  |
| 7. We have developed and adhere to a risk management plan (e.g., disaster recovery, business continuation, risk assessment analysis/scorecard, etc.), taking into account the nature and scope of our activities and resources. |  |  |  |  |  |
| 8. We regularly ensure that we have adequate property and liability insurance coverage (including directors’ and officers’ insurance, if needed), taking into account the nature and scope of our activities and resources. (Note: Not applicable to corporate foundations, which receive insurance coverage from the corporation.) |  |  |  |  |  |

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| ***Board Membership***  (Note: Some of these practices may not apply to corporate foundations, if board membership is determined by a company's top leadership.) | True | Mostly True | Some- times True | Never True | NA |
| 1. Our board periodically re-assesses the most appropriate board size to ensure effective governance, encourage discussion, enhance efficiency and meet our goals and objectives. At a minimum, we have 3 board members. |  |  |  |  |  |
| 2. We have developed bylaws to establish fixed terms of service for board members and to specify the number of consecutive and/or total terms an individual may serve, if not specified in our charter, as appropriate for the nature of our foundation. |  |  |  |  |  |

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|  | True | Mostly True | Some- times True | Never True | NA |
| 3. We follow an explicit written process and criteria for selecting board members. |  |  |  |  |  |
| 4. We follow an explicit written process and criteria for removing board members. |  |  |  |  |  |
| 5. We periodically evaluate the individual performance of each board member. |  |  |  |  |  |
| 6. We periodically evaluate the performance of the board as a body. |  |  |  |  |  |

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| ***Board Compensation*** | True | Mostly True | Some- times True | Never True | NA |
| 1. We do not compensate board members using a fee based on a percentage of assets or income. |  |  |  |  |  |
| 2. If we compensate and/or reimburse board members, we have developed a compensation and reimbursement policy that includes, at a minimum, the following components:   * Brief rationale for the policy. * Detailed explanation of how compensation will be determined, including a requirement that each board member submit an annual report documenting time spent on foundation activities. * Details on which expenses will and will not be reimbursed, and limits on reimbursed expenses. * Identification of the decision-makers for compensation matters. |  |  |  |  |  |

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| ***Conflicts of Interest*** | True | Mostly True | Some- times True | Never True | NA |
| 1. We require all new board and staff members to review our conflict of interest policy and acknowledge in writing that they have done so. |  |  |  |  |  |
| 2. Our board members have disclosed any actual or perceived conflicts of interest about a contract or transaction prior to board action on that contract or transaction, and all such disclosures have been reflected in the minutes of the meeting. |  |  |  |  |  |
| 3. Whenever a board member discloses a conflict of interest with a contract or transaction, the board or a committee determines whether a more advantageous transaction or arrangement could be reasonably attainable that would not give rise to a conflict. |  |  |  |  |  |
| 4. Our employees disclose to the chief executive any actual or perceived conflict of interest with respect to a contract or transaction, and refrain from any action that may affect the foundation’s participation in the contract or transaction. |  |  |  |  |  |

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|  | True | Mostly True | Some- times True | Never True | NA |
| 5. We post our conflict of interest policy on our website (if we have a website). |  |  |  |  |  |
| 6. We educate all of our board and staff members about what constitutes a conflict of interest. |  |  |  |  |  |

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| ***Board Learning*** | True | Mostly True | Some- times True | Never True | NA |
| 1. We provide an orientation for incoming board members, which includes a review of roles and responsibilities, bylaws and other organizational documents, policies, foundation history, donor intent, ethics and accountability, and an introduction to grantmaking and the philanthropy field. |  |  |  |  |  |

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| ***Donor Intent*** (Note: Not applicable for corporate foundations.) | True | Mostly True | Some- times True | Never True | NA |
| 1. Board members have access to, and general knowledge of, any written correspondence that details the founding donor’s goals and expectations for the foundation. |  |  |  |  |  |

**Level 3 – Practices of Excellence for Accountability**

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| ***Board Management*** | True | Mostly True | Some- times True | Never True | NA |
| 1. Board members ensure that the foundation’s activities are consistent with the foundation’s mission. |  |  |  |  |  |
| 2. All committees operate under the direction and control of the board, and board members receive regular committee reports and scrutinize their work. |  |  |  |  |  |
| 3. We have clearly defined and documented the roles, responsibilities, and expected time commitment of board members, officers and committees. |  |  |  |  |  |
| 4. Our board receives sufficient information and varied perspectives to inform its decision-making and carry out due diligence. |  |  |  |  |  |
| 5. We have clearly defined and documented the authority of the board chair, or any other board member or committee, to act between board meetings. |  |  |  |  |  |
| 6. We maintain systems for ongoing board communications between board meetings. |  |  |  |  |  |

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|  | True | Mostly True | Some- times True | Never True | NA |
| 7. When appropriate, our board and/or staff consults subject matter experts or community representatives and/or includes them on committees or advisory groups. |  |  |  |  |  |
| 8. When communicating with grantees, fellow board members and others, board members are always clear about whether they are speaking for themselves or on behalf of the foundation. |  |  |  |  |  |

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| ***Board Membership***  (Note: The practices in this section may not be relevant for corporate foundations, if board membership is determined by a company's top leadership.) | True | Mostly True | Some- times True | Never True | NA |
| 1. When possible and appropriate, we actively recruit new board members from among various racial/ethnic groups. If we are governed by explicit requirements for board service that may preclude achieving racial/ethnic diversity, we employ other appropriate means to gain diverse perspectives on the board, such as through the use of advisors and consultants. |  |  |  |  |  |
| 2. When considering renewals for board membership, our board engages in a defined process to allow other board members to deliberately re-examine a board member’s commitment, performance and engagement to determine whether that director/trustee should continue to serve on the board. |  |  |  |  |  |
| 3. We have clearly defined procedures for appointing board members to replace any who may die, resign or be otherwise unable to complete their board service. |  |  |  |  |  |
| 4. We have developed and periodically review a leadership succession plan for the board. |  |  |  |  |  |
| 5. We have developed and periodically review a leadership succession plan for the chief executive. |  |  |  |  |  |

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| ***Board Learning*** | True | Mostly True | Some- times True | Never True | NA |
| 1. We plan, adequately fund, and give a high priority to continuous learning and training of board members, particularly on basic legal, accounting, audit, tax and fiduciary issues and responsibilities. |  |  |  |  |  |
| 2. We hold regular board trainings on ethics and accountability. |  |  |  |  |  |
| 3. We encourage our board members to participate in regional and/or national grantmaking conferences, programs, associations or support groups for professional development and sharing of information, as appropriate and feasible. |  |  |  |  |  |

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|  | True | Mostly True | Some- times True | Never True | NA |
| 4. We invite grantees and other grantmakers to share lessons learned in board/staff meetings, retreats or learning exchanges. |  |  |  |  |  |

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| ***Donor Intent***  (Note: Not applicable for corporate foundations.) | True | Mostly True | Some- times True | Never True | NA |
| 1. If possible, the founding donor(s) have talked with the board about their goals, expectations and purpose in creating the foundation, and/or the conversation has been videotaped, audiotaped or otherwise documented for future reference and generations. |  |  |  |  |  |
| 2. We state the donor’s intent in our annual reports and other appropriate foundation communications. |  |  |  |  |  |
| 3. If the changing needs of our society make following the donor’s specific instructions impractical, we identify alternative grantmaking goals that reasonably honor the donor’s intent. |  |  |  |  |  |