



NOV
1ST
2023

8:30AM - 10:00AM

BEST PRACTICES FOR NONPROFITS

Agenda

Flow of information to the Board
The Budget Process
Appropriate Analytics
The Three Duties
Cost Allocations/Cost Centers
Annual Board Meeting
Committees
Compliance Risk Committee
Governing Documents to Duty of Obedience Continued
Succession Planning
Leadership
Bonus Round

Flow of Information to the Board

- **Timely and adequate flow of information to the Board is required for the Board's mandatory oversight function.**

- Unintended Consequence: breach of fiduciary duty claim.

- Adequate Oversight \neq trust

- Volunteers doing good

- Smart and accomplished Board

- ✓ Dowling; Adelphi

- ❖ **QUALITY & TIMELINESS OF INFORMATION**

Flow of Information to the Board

- **Dowling Complaint: Dowling's Board and Dowling's administration did not have the proper tools to evaluate Dowling's financial position or to make informed decisions.**
 - Dowling's financial reporting under defendants' Board participation was woefully inadequate.
 - Dowling's data management system did not provide **reliable or accurate information from which defendants could make informed business and financial decisions.**
- **13 individuals were sued in their capacity as Board members** (trustees) of Dowling College (and also as CFO)

The Budget Process

- The budget is a key element of the control process
- Board's fiscal oversight of an organization
- Key elements:
 - Should be reviewed and approved by the Board before year-end
 - Should be developed on a monthly basis and not just an annual budget divided by 12
 - Consider the seasonality of operations and fundraising
 - Board needs to receive budget-to-actual reporting regularly throughout the year
 - Should contain explanations for major fluctuations
 - Budget modifications for spending fluctuations
- Program staff involved in creating their own department budgets
- Consider pre-established contingency budgets

Develop Appropriate Analytics

- Identify key organizational analytics – what are the key factors that drive your organization?
 - Days in cash
 - Days in receivable
 - Vacancy rates
 - Average rent-per-unit
 - Liquidity (current ratio and working capital)
 - Debt to equity (net assets)
 - Profit margin
 - Fluctuations from prior periods
- Determine what you need to do organizationally to drive these indices in the right direction

Fiduciary Duties

3 Fundamental Legal Duties of a Nonprofit Director Under New York Law:

- Duty of Care
- Duty of Loyalty
- Duty of Obedience

Duty of Care:

- A director must discharge the duties of his/her position in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.
 - NPCL § 717(a)
 - Oversight function: Requires familiarity with the organization's finances and activities, and regular participation in its governance.
 - **Healing Arts Initiative lawsuit (April 2016)**

Duty of Care - A Roadmap:

- Right From The Start: Responsibilities of Directors of Not-for-Profit Corporations (Charities Bureau, 2015)
- The Committee to Save Adelphi, et al. v. Diamandopoulos, et al. (Board of Regents, 1997)
- Unsecured Creditor Trustee of Dowling College v. 13 individuals sued in their capacity as Board members (trustees) of Dowling College (and also as CFO)
- Internal Controls
 - Internal Controls And Financial Accountability For Not-For-Profit Boards (Charities Bureau, 2015)
- Policies & Procedures
- Critical Role of Audit Oversight (Independence Requirement)
 - Audit Committee Requirements And Responsibilities Under New York's Not-For-Profit Corporation Law As Amended Through 2017 (Charities Bureau, 2018)

Duty of Loyalty:

- A director must act in the interest of the organization.
 - Requires undivided allegiance to the organization's mission when using the power of his/her position, or information concerning the organization or its property.
 - Conflicts of interest; related party transactions.

Duty of Obedience:

- Least understood and most often neglected of the 3 primary legal duties
 - to ensure that the organization complies with applicable laws and regulations and its internal governance documents and policies
 - Compliance with applicable laws and regulations is even more difficult than it sounds
 - Multiple layers of laws and regulations

Duty of Obedience - Compliance with Laws and Regulations :

- **Not-for-Profit Corporation Law**
- **Laws & Regulations – additional layers**

Duty of Obedience - Not-for-Profit Corporation Law:

- Best efforts under difficult circumstances is not the compliance standard
- Law
- Mandatory requirements & procedures
- Bright lines
- Rigid
- Inflexible (cemetery pandemic example)
- Unforgiving

Cost Allocations/Allocation Methodology Policies

- Multiple programs/grants
 - Budget, revenue, or management's best guess are not appropriate allocation methodologies
 - Need to ensure each program is picking up its pro-rata share of costs (especially if there are deficit-funded contracts or federal funding involved)
- Allocations should be systematic and justifiable
 - Square footage – occupancy related costs
 - Contemporaneous time tracking/time studies – Payroll related costs
 - Ratio value – Administrative overhead costs
- Policies/methodologies should be documented
 - Accounting policy and procedure manual

Cost Allocations/Allocation Methodology Policies

- Use Cost Centers
 - Most accounting software enables the ability to track costs by cost center (or fund)
 - More upfront time, but it provides more meaningful information to organizational management
 - Help to understand program profitability and admin absorption
 - Can determine if ancillary programs make sense
 - Can evaluate better ways to operate your business and how best to deploy limited resources
 - Can identify areas for further funding opportunities
 - Timely and accurate financial reporting is key

Annual Meeting

- Not just any annual meeting, but an annual meeting that complies with the Not-for-Profit Corporation Law
 - Notice Requirements
 - Two Mandatory Components
 - Election of Directors
 - Annual Financial Report
- Annual Conflict of Interest Disclosure
- Minutes
- Compliance with Bylaws & Certificate of Incorporation

Committees

- Necessary Division of Labor
- Board Committees vs. Committees of the Corporation
- Audit Committee
- Governance Committee

Compliance/Risk Committee

- Important to understand areas of risk within the organization
 - Compliance-related issues – is there a QA function in place?
 - Grant terms
 - Changing regulations
 - Documentation issues
 - Cyber security issues
 - Cyber attacks on the rise in the nonprofit sector
 - Donor and client information
 - Insurance exposure
 - Staffing issues
 - Funding levels
 - Fundraising levels
 - Wealth transference – winner or loser?
 - Reputational damage
 - The economy
 - Rising costs
 - Expensive money/high interest rates

Compliance with Internal Governance Documents and Policies:

- Certificate of Incorporation
- Bylaws
- Conflict of Interest Policy
- Investment Policy & more . . .

Duty of Obedience

Traps for the Unwary

- Compliance with Certificate of Incorporation
- Compliance with Bylaws
- Compliance with Not-for-Profit Corporation Law

Succession Planning

- It is anticipated that approximately 75% of nonprofit leaders plan to leave their current positions in the next 5 to 10 years
- According to Board Source, only 27% of nonprofits have a documented succession plan
 - Do you have a documented plan/process?
 - Do you have an interim that could step in?
 - What level of communication is happening between leadership and the Board?
 - Are you establishing growth strategies for younger staff and is it communicated?
- Organizations go through life cycles – need to understand your organization’s lifestyle and what type of leadership change is necessary

Retool your Leadership

- Many current leaders learned from Baby Boomers
 - Hardworking Loyalty
 - Achievement Relationships
 - Self-reliant/sufficient Face-to-face communication/phone
 - Managerial hierarchy Workaholics
- Gen Z will comprise 27% of the workforce by 2025
 - Authenticity Adaptability
 - Empathy Work-life balance
 - Feedback Flexibility
 - Training Socially-driven
 - Text/e-mail communication

Bonus Round

- IRS Form 990
- Board Education
- Insurance, including D & O Liability
- Quality of Board Members' Experience
- NYPMIFA

Benefits of becoming a Nonprofit Partner

- FREE entry to all NRH events (accept our Conference)
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- Ask the Expert – gain direct access to experts in their field of service and have your questions Answered
- Broaden your horizons and extend the reach of your online presence

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Any Questions Contact Alison A. La Ferlita: 917-495-5954 | Alaferlita@nonprofitresourcehub.org

Upcoming Events at the Hub



THE NONPROFIT RESOURCE HUB IN PARTNERSHIP WITH MOLLOY UNIVERSITY INVITES YOU TO JOIN US AT THE

NONPROFIT LEADERSHIP HALF-DAY CONFERENCE

Nonprofit Resource Hub | MOLLOY UNIVERSITY

The Profile of Today's Nonprofit Leader

AGENDA

Discover the future of effective nonprofit leadership at this year's conference.

8:00 AM - 9:00 AM Doors Open - Registration Begins

9:00 AM to 9:10 AM Welcome and Opening Remarks

9:10 AM to 10:10 AM *Keynote Speaker: Laura Fredricks, JD*
The 3 Keys to Effective Leadership: Be Prepared – Be Personable – Be Present

10:15 AM to 11:00 AM *Panel Discussion*
Collaboration: Why is It Important and How to Do it?

11:05 AM to 11:45 AM *Presentation*
Using AI to Leverage Your Organization and Increase Fundraising

11:50 AM to 12:30 PM *Presentation*
Collaboration: Why is It Important and How to Do it?

12:30 PM to 1:30 PM Lunch and Networking

1:30 PM to 2:30 PM *Panel Discussion*
Profile of The Modern-Day Nonprofit Leader

Event Details
November 17, 2023
8:00 am - 2:30 pm
Molloy University
Suffolk Center
1100 Broadway
Amityville, NY 11701

Who Should Join Us!

- C-Suite Executives
- Board Members
- Up and Coming Executives

Ticket Prices

- Early Bird Special ENDS OCTOBER 31 TH**
 - Members \$75
 - Non-Members \$100
- Regular**
 - Members \$100
 - Non-Members \$125
 - Virtual \$25

Buy Tickets at <https://tinyurl.com/3by4shrj>

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Any Questions email
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Nonprofit Leadership Conference

November 17, 2023 8:00 am - 2:30 pm

Discover the future of effective nonprofit leadership at this year's conference. Designed for C-Suite Executives, nonprofit board members, and Up and Coming Leaders, this conference offers a thorough exploration of the evolving role of nonprofit leaders. Uncover the qualities, skills, and strategies that define a successful leader and gain insights into navigating the challenges and opportunities in the nonprofit sector. Hear from world-renowned nonprofit fundraising expert, author, and business coach, Laura Fredricks, who will discuss the three keys to effective leadership in today's nonprofit landscape.

[Register Here](#)

Upcoming Events at the Hub



**HOLIDAY KICKOFF
MEET & GREET EVENT**
THIS EVENT IS ONLY FOR NONPROFITS




Nonprofit Resource Hub

As the holiday season approaches, it's time to embrace the spirit of giving, collaboration, and community.

**DECEMBER 4, 2023
6:00 - 8:00 PM**

Hosted By American Red Cross at 520 West 49th Street

Holiday Kickoff Meet & Greet Event!

 Date: Monday, December 4th  Time: 6:00 PM – 8:00 PM  Location: 520 W 49th St, New York, NY 10019

Join Us for a Festive Holiday Kickoff Meet & Greet Event!

As the holiday season approaches, it's time to embrace the spirit of giving, collaboration, and community. We are excited to extend a warm invitation to our annual Holiday Kickoff Meet & Greet event, where we come together to share in the joy of the season and express our gratitude.

[Register Here!](#)



**ASK THE EXPERT:
FUNDRAISING & EVENT PLANNING**
A MODERATED DISCUSSION

Nonprofit Resource Hub

Featuring Our Expert:
Darren Port, Founder of Powered by Professionals

Ask The Expert Fundraising and Event Planning

December 5th 12:00 pm – 1:00 pm Virtual

Discover key strategies to elevate your nonprofit, including:

- Essential steps to plan an exceptional 2024 Fundraising Gala
- Proven tactics to boost fundraising for 2024 through major events
- Effective methods to identify an Honoree and secure new Sponsors

[Register Here!](#)

Thank you!



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