6

Ensuring Accountability and Measuring Performance

Nonprofit organizations enjoy considerable autonomy in defining their missions, setting their own goals, and crafting their own strategies for achieving those goals. They are private organizations, but they are granted charters to serve purposes that society has deemed to be of public benefit. The organizations are exempt from taxation, and donors are permitted deductions for gifts made to charitable nonprofits to further those purposes. Tax exemption and the tax deductibility of gifts represent foregone government revenue and therefore are regarded by many as a form of tax subsidy; in other words, to some extent, nonprofits are working with the public's money. That gives society an interest in ensuring that they are *accountable* for their use of the resources entrusted to them and that those resources are indeed being directed toward the pursuit of their social missions. But what exactly is society entitled to expect?

The question is a little like asking, "What is a good student?" Does one qualify just by attending all classes, turning in papers on time, and showing up for exams—that is, by not breaking any of the rules of the course? Or is a good student someone who studies hard and seeks help from the professor when something is not clear—in other words, someone who shows exemplary student behavior? Does being a good student require earning good grades? Do grades accurately reflect what a student may have learned in a course, or is it possible that a better measure would be to compare what he or she knew or could do at the beginning of a course with what he or she knew or could do at the end, maybe basing the label of *good student* on some measure of value added? As we will see in this chapter, similar questions arise when we consider ideas such as the accountability, effectiveness, and performance of nonprofit organizations.

Defining and Ensuring Accountability

To be *accountable* essentially means being required to answer, to take responsibility, for one's actions. Perhaps the narrowest concept of *accountability* for a nonprofit would require merely following the law—for example, obeying the non-distribution requirement, avoiding conflicts of interest, treating staff without discrimination, and filing IRS reports as required. But that might seem to be a minimal standard to expect. Perhaps we might look for something more, not just following the law but also going beyond the requirements of law to follow best practices in governing and managing the organization—in other words, doing the right things as well as not doing things that are wrong.

But does even a definition of accountability that expects nonprofits to do the right things really go far enough? For example, the board may meet regularly, the budget may be invariably balanced, the staff may be happy and motivated, and there may be a written strategic plan, but that does not ensure that clients are recovering, the symphony is achieving artistic excellence, or public attitudes on the environment are being changed. Thus, perhaps, accountability needs to include more than just avoiding transgressions and exhibiting model behavior. It may need to encompass demonstrated effectiveness in achieving the purposes for which the nonprofit exists. That requires not only that the resources entrusted to the nonprofit not be misused, but also that they be used to maximum benefit in pursuing the organization's mission. As we will see, however, this component of accountability turns out to be the most complex, since there is not always consensus on how results should be measured, or even on how they should be defined.

The question of to whom nonprofits must account has long been asked—to clients, to donors, to the larger community, and/or to other stakeholders? It has gained more precise answers in recent years, as governments have increased their reporting requirements and a variety of other entities have cast the light of transparency on nonprofit behavior.

Concern about the accountability of nonprofit organizations has a long history. As early as 1918, the National Charities Information Bureau was created to educate the public about nonprofit organization behavior in order to reduce the incidence of charity fraud. But concern about accountability became heightened in the 1990s and 2000s. In 1992, the widely publicized misuse of United Way funds by the man who was then president, William Aramony, for which he was convicted and served jail time, shocked the nation. Again after September 11, 2001, accusations that some charity fundraising appeals were misleading and questions about the use of the funds given to help victims of the terrorist attacks further undermined the public's confidence in the integrity of the sector. Controversies at the Nature Conservancy, American University, and other organizations in the mid-2000s captured the attention of the media as well as the U.S. Congress and further heightened concern about accountability in the nonprofit sector. Members of the U.S. Congress held hearings, and there was discussion of passing new legislation to regulate the nonprofit sector. The sector responded by developing voluntary principles for accountability, including the Independent Sector principles, first issued in 2007 and revised in 2015 (Independent Sector, 2007, 2015d). Some states also responded by passing new legislation regulating nonprofits chartered within their jurisdictions and various state associations of nonprofits adopted codes and standards that have been implemented by some organizations.

The broader definition of accountability, including the requirement to produce results, also has become more pronounced with the growing impact of donors who view their giving as social investment and demand specific evidence of the impact of their support. For these reasons, the topics of accountability and *performance* are intrinsically linked today, and both are explored in this chapter.

Mechanisms for Accountability

There are three principal mechanisms by which nonprofits are held accountable: the *rule of law, self-regulation,* and *transparency*—that is, holding nonprofit behavior up in clear view for donors, the media, and others to see. Table 6.1 summarizes these mechanisms and provides some examples. Let's take a closer look at some of them.

Requirements of Law

Chapters 3 and 4 covered some of the legal requirements facing nonprofits, so we need only review a few key points here. Nonprofits must comply with laws at both state and federal levels. State governments grant nonprofits their charters, and state attorneys general and state courts have the authority to take action against law-breaking nonprofits. This can include the removal of board members who violate their fiduciary responsibilities and possibly even revoking of the organization's charter. Most states also have laws regulating the behavior of nonprofits in specific areas—for example, requiring that they be registered in order to solicit gifts from the general public.

At the federal level, regulation of nonprofits is carried out primarily by the IRS's Division on Tax-Exempt and Government Entities. The IRS has the authority to impose intermediate sanctions or to revoke an organization's tax exemption, eliminating its ability to raise tax-deductible gifts and subjecting it to the requirement to pay income taxes itself. Nonprofits that receive federal funds above certain amounts are also subject to additional rules with regard to their use of the federal dollars. Organizations with revenues greater than $50,000 (except religious congregations) are required to file an annual *Form 990*, 990-EZ, or 990-PF with the IRS. Organizations with revenue of less than $50,000 are required to file a postcard (Form 990-N), which provides very basic information. As discussed in Chapter 4, beginning in 2009 (with filing of the Form 990 covering 2008), the IRS introduced a revised form that greatly expanded the information required. The revised 990 includes questions related to governance as well as finances and programs. (See Figure 4.1 for the Form 990, Part VI questions related to governance.) Since 2008, even small nonprofits that are not required to file Form 990 are required to electronically file Form 990-N, also known as the *e-Postcard*. It includes minimal information that essentially reflects the organization's existence, without the data encompassed by Form 990.

In 2002, as noted in Chapter 4, Congress passed the Sarbanes-Oxley Act, responding to corporate governance scandals. While Sarbanes-Oxley (or "SOX," as it is commonly called) pertains primarily to publicly traded corporations, two of its provisions—those regarding protection for whistle-blowers and destruction of documents—also apply to nonprofit organizations. Some states, including California, have passed legislation directed at nonprofits that essentially incorporates Sarbanes–Oxley-type requirements (Nonprofit Integrity Act, 2004). Many nonprofits have voluntarily adopted Sarbanes-Oxley provisions as a way to assure their donors that they are operating with high integrity, transparency, and sound governance. In addition, questions included in Part VI of Form 990 imply that nonprofits should comply with some Sarbanes-Oxley practices, even if not required to do so by law.

Principles of good governance and ethical practice, such as those established by the Panel on the Nonprofit Sector, also include many points consistent with Sarbanes-Oxley. These developments clearly have pushed the definition of accountability beyond just "do no wrong"; it now includes adherence to best practices in governance and ethical behavior. Using the "good student" we discussed at the beginning of the chapter as a metaphor, nonprofits are now expected to do more than just not be absent from class and miss paper deadlines; they are also expected to demonstrate that they have done their homework, have studied, and have engaged in other activities defined as good-student behaviors.

The federal *Pension Protection Act of 2006*, as its title implies, is principally focused on the reform of pensions, but it also contains a variety of provisions that affect the nonprofit sector. They include, among others, changes in the law regarding charitable giving, tighter regulation of certain types of nonprofit organizations, greater communication between the IRS and state authorities regarding action taken against nonprofits, and the requirement that nonprofits with unrelated business income make public their Form 990-T (Johnson, 2006).

This text does not include a complete discussion of laws affecting nonprofit organizations. Moreover, regulations change frequently and the law may change at any time. The suggested readings at the end of this chapter include books that provide detailed discussion of the nonprofit legal framework, and students will find the website of Independent Sector (www.independentsector.org) to be an excellent source of up-to-date information on new or pending legislation.

TABLE 6.1 ■ Mechanisms for Accountability and Examples

Mechanism	Examples
Requirements of law	Sarbanes-Oxley Act Pension Protection Act of 2006 State laws IRS regulations
Self-regulation	Independent Sector Principles for Good Governance and Ethical Practice (2007, 2015) Accreditation bodies in education and health care State nonprofit association standards and voluntary accreditation programs
Transparency	Form 990, available on GuideStar and other websites News media scrutiny Charity watchdogs and raters (*U.S. News & World Report* rankings, Better Business Bureau Wise Alliance, Charity Navigator) GreatNonprofits (www.greatnonprofits.org)

Self-Regulation: Standards and Accreditation

If the nonprofit sector would prefer not to be burdened by increased government regulation, then the alternative is to develop more effective mechanisms for self-regulation. In 2004, concern about nonprofit accountability prompted the Finance Committee of the U.S. Senate to hold hearings and consider proposals for significantly increased regulation of the nonprofit sector at the national level. At the committee's request, Independent Sector convened a Panel on the Nonprofit Sector to develop recommendations. The panel's report was presented to the Congress in June 2005; it suggested increased enforcement of existing state and federal law, increased reporting by nonprofits, and some additional legislation. But its emphasis was on the importance of maintaining the sector's independence and on its capacity for self-regulation (Independent Sector, 2005; Panel on the Nonprofit Sector, 2005). The Panel on the Nonprofit Sector's recommendations and 33 principles for good governance and ethical conduct were published in 2007 and revised in 2015. They are organized into four broad areas: legal compliance and public disclosure, effective governance, strong financial oversight, and responsible fundraising (Independent Sector, 2015d).

There are a number of well-known standards of practice in addition to the Independent Sector principles, some of which are the basis for *accreditation* of nonprofits by various authorities. There is a long history of accreditation of educational and health care institutions. For example, schools and colleges are accredited through regional associations. Individual institutions engage in self-studies according to a process defined by the accrediting body and are evaluated through intensive visits by teams from peer institutions. Professional schools within universities have separate accrediting mechanisms; for example, law schools are accredited by the American Bar Association and business schools by the Association to Advance Collegiate Schools of Business. Health care organizations, including hospitals, nursing homes, health care networks, and other service providers, are accredited by the Joint Commission on Accreditation of Healthcare Organizations, itself a nonprofit organization.

Although educational accreditation is voluntary, accrediting bodies are recognized by the U.S. Department of Education, and accreditation is required in order to be eligible for certain government funds. Likewise, accreditation of health care organizations is voluntary, but the power of government creates a significant incentive, since status as an accredited health care provider is required in order to be eligible to receive certain government reimbursements, an essential source of revenue for many organizations.

In the broader nonprofit sector, the accreditation of organizations is a relatively recent concept, having its origins in the development of accountability standards and definitions of best practices by state associations of nonprofits and others. As one example, Maryland Nonprofits (previously known as the Maryland Association of Nonprofits; 2014) developed Standards for Excellence in nonprofit management that are well regarded and have become a model for other state associations across the country. The Maryland standards are summarized in Table 6.2. These standards essentially describe recommended best practices—that is, a set of guides for behavior that reflect a consensus about how well-managed and accountable nonprofits should operate.

Like other state associations, Maryland's offers a voluntary accreditation program to organizations that wish to demonstrate their adherence to its standards. The program is available to nonprofit organizations nationwide through the Standards for Excellence Institute, an initiative of Maryland Nonprofits (Standards for Excellence Institute, 2014). Similar to the accreditation process in educational and health care institutions, the process requires that the organization complete a lengthy application, pay a fee, and be approved by a team of trained peer reviewers. Organizations that successfully complete the process are entitled to use of a Standards for Excellence Seal, a kind of "Good Housekeeping Seal" of approval, in their solicitations and other materials (Standards for Excellence Institute, 2014).

TABLE 6.2 ■ Maryland NONPROFITS Standards for Excellence®: An Ethics and Accountability Code for the Nonprofit Sector (2nd edition, 2014)

PREAMBLE

America's nonprofit sector serves the public interest and plays an essential role in our society and economy. Hard at work strengthening communities across the nation, nonprofits enrich our lives in a variety of ways by creating a broad array of benefits to society in fields such as charitable, religious, scientific, economic, health, cultural, civil rights, environment, and education.

Public investment and confidence drive the success of nonprofit organizations. Individuals, corporations, foundations, and federal, state, and local governments add value to the services that nonprofits provide by investing time, resources, and funds.

The Standards for Excellence Institute aims to raise the level of accountability, transparency, and effectiveness of all nonprofit organizations to foster excellence and inspire trust. The Standards for Excellence code (Standards, or code) provides a framework and step-by-step guidelines to achieve a well-managed and responsibly governed organization.

The code builds upon the legal foundations of nonprofit management, governance, and operations to embrace fundamental values such as honesty, integrity, fairness, respect, trust, compassion, responsibility, and transparency. The code consists of six Guiding Principles in 27 topic areas with specific performance benchmarks that characterize effective, ethical, and accountable organizations. The Institute helps the nonprofit sector operate in accordance with the Standards for Excellence code by providing educational resources, assistance, and a voluntary accreditation process.

The Standards for Excellence Institute encourages all nonprofit organizations to adopt the Guiding Principles of the Standards for Excellence code. By implementing the performance benchmarks in the code, nonprofit organizations will meet the highest ethical standards for effective service in the public interest.

MISSION, STRATEGY, AND EVALUATION

Guiding Principle:

Nonprofits are founded for the public good and operate to accomplish a stated purpose through specific program activities. A nonprofit should have a well-defined mission, and its programs should effectively and efficiently work toward achieving that mission. Nonprofits have an obligation to ensure program effectiveness and to devote the resources of the organization to achieving its stated purpose.

A. Mission and Impact

1. A nonprofit should have a mission statement that is a clear and formal statement of the organization's purpose as defined and approved by the board of directors. The organization's activities should be consistent with its stated purpose.

(Continued)

TABLE 6.2 ■ (Continued)

2. A nonprofit should be able to articulate how its mission is supported by a statement of the organization's vision and strategic goals.

B. Planning Strategically

1. Nonprofits should engage in ongoing long and short-term strategic planning activities as necessary to determine the mission of the organization, to define specific goals and objectives related to the mission, and to evaluate the success of the organization's programs toward achieving the mission.
2. A nonprofit should periodically revisit its mission (i.e., at a minimum every 5 years) to determine whether the need for its programs or services continues to exist. In light of societal changes and critical strategic issues, the organization should evaluate whether its programs should be modified, expanded, or discontinued to meet the mission.

C. Organizational Evaluation

1. A nonprofit should engage in organizational evaluation to ensure that all financial resources and human capital are being used toward fulfilling its mission.

D. Program Evaluation

1. A nonprofit should have defined, cost-effective procedures for evaluating, both qualitatively and quantitatively, its programs and projects in relation to its mission. These procedures should address programmatic efficiency and effectiveness, outcomes for program participants, and the relationship of these outcomes to the cost of achieving them. Evaluations should include input from program participants, and should monitor the satisfaction of participants.
2. Evaluations should be candid, and should be used by leadership to strengthen the organization's effectiveness, and, when necessary, be used to make programmatic changes.

E. Strategic Partnerships

1. Nonprofits engaging in strategic partnerships and formal alliances with other organizations should do so within the context of a board-approved policy outlining the goals and parameters of such partnerships. Depending on the type of strategic partnership, nonprofits should ensure that proper due diligence has been followed and that agreements, memoranda of understanding, or similar documentation have been thoughtfully reviewed and considered.

LEADERSHIP: BOARD, STAFF, AND VOLUNTEERS

Guiding Principle:

Nonprofits depend upon effective leadership to successfully enact their missions and programs. Effective leadership consists of a partnership between the board and management, each of which plays an essential role. Understanding and negotiating these shared and complex elements of leadership is essential to the organization's success. A nonprofit's employees and volunteers are fundamental to its ability to achieve its mission.

Board members are in a position of trust to ensure that resources are used to carry out the mission of the organization. An organization's board leadership should consist of volunteers who are committed to the mission and who demonstrate an understanding of the community served. An effective nonprofit board should determine the mission of the organization, establish management policies and procedures, assure that adequate human and financial resources are available, and actively monitor the organization's allocation of resources to effectively and efficiently fulfill its mission.

Nonprofits should also have executive leadership which carries out the day-to-day operations of the organization, ensures financial and organizational sustainability, and provides adequate information to the board of directors. An organization's human resource policies should address both paid employees and volunteers and should be fair, establish clear expectations, and provide meaningful and effective performance evaluation.

A. Leadership and Governance

1. Governance and Fiduciary Responsibility
   - The board should be composed of individuals who are personally committed to the mission of the organization and understand their roles as fiduciaries in performing the legal duties of a governing body.

- The board should establish and periodically review the bylaws and policies to ensure the effective governance and management of the organization.

2. Executive Supervision, Performance, and Compensation
   - The board should appoint the chief executive, set the executive's compensation, and annually evaluate the executive's performance. In cases where a designated committee performs one of these responsibilities, the decision should be ratified by the full board.
   - The board is responsible for supporting the functions of the executive, granting sufficient authority, and helping to ensure his or her success in managing the organization.
3. Board Effectiveness
   - The board is responsible for its own operations, including periodic (i.e., at least once every two years) evaluation of its own performance.
   - The board should have stated performance expectations and hold board members accountable for attendance at meetings, participation in fundraising activities, committee service, and involvement in program activities.
   - The board should establish a rigorous board development strategy for recruiting and selecting new members and ensuring that the board has an appropriate mix of talent, connections to the community, and diversity.
   - Board policies should include limits on the number of consecutive terms a board member may serve. The board is responsible for the orientation, education, and (where appropriate) the removal of board members.
   - New board members should receive an introduction to the Standards for Excellence code.
4. Succession Planning and Leadership Development
   - The board, in partnership with the executive, should engage in coordinated succession planning and leadership development to ensure a thorough process for recruiting and developing new board, executive, staff, and volunteer leaders.
5. Board Member Independence
   - Board members of public charities should serve without compensation for their service as board members. They may be provided reasonable reimbursement for expenses directly related to performing their board service.
   - The board should have no fewer than five (5) independent and unrelated directors. Seven (7) or more directors are preferable.
   - When an employee of the organization is a voting member of the board, the board is responsible for ensuring that the employee will not be in a position to exercise undue influence.
6. Board Meetings
   - The board should meet as frequently as needed to fully and adequately conduct the business of the organization. At a minimum, the board should meet four (4) times a year.
   - Board agendas should be strategically structured around decision-making in a way that facilitates efficient, effective, and engaging meetings. Accurate minutes reflecting board and committee actions should be kept and distributed to all board and committee members.
   - Committees with decision-making authority should report any committee actions or decisions to the full board. Those decisions must be reflected in the board minutes.

B. Leadership and Operational Management

1. Executive Function
   - The executive is responsible for the day-to-day management and operations of the organization. The executive should be committed to the mission of the organization and have the skills necessary to manage the paid and volunteer talent, and financial resources of the organization.
2. Supporting the Board
   - The executive should support the board's policy and oversight function by providing accurate and timely information and resources to the board.
   - The executive should periodically prepare for the board an overview of the compensation structure of the organization and the value of volunteer investments in the organization.
3. Organizational and Financial Sustainability
   - The executive should consider what human (staff) and financial resources are necessary for organizational sustainability and mission fulfillment. The executive should also assist the board in planning for the organization's future.

(Continued)

TABLE 6.2 ■ (Continued)

4. Managing Employees and Volunteers
   - Staff and volunteers should be recruited, screened (including required background checks), selected, trained, supervised, evaluated, and recognized appropriately. Staff and volunteers should be oriented to their positions, the organization, and the Standards for Excellence code, and should be provided with appropriate professional development opportunities.

C. Cultural Competency

1. A nonprofit's leadership should ensure that the organization has a policy, plan, or strategies in place that enables the organization to effectively serve and interact with people equitably across different cultures and backgrounds.

LEGAL COMPLIANCE AND ETHICS

Guiding Principle:
Nonprofits enjoy the public's trust, and therefore must comply with a diverse array of legal and regulatory requirements. Organizations should conduct periodic reviews to address regulatory and fiduciary concerns. One of leadership's fundamental responsibilities is to ensure that the organization governs and operates in an ethical and legal manner. Fostering exemplary conduct is one of the most effective means of developing internal and external trust as well as preventing misconduct. Moreover, to honor the trust that the public has given them, nonprofits have an obligation to go beyond legal requirements and embrace the highest ethical practices. Nonprofit board, staff, and volunteers must act in the best interest of the organization, rather than in furtherance of personal interests or the interests of third parties. A nonprofit should have policies in place, and should routinely and systematically implement those policies, to prevent actual, potential, or perceived conflicts of interest. In this way, ethics and compliance reinforce each other.

A. Maintaining Legal Compliance

1. Nonprofits must be aware of and comply with all applicable federal, state, and local laws. This may include, but is not limited to complying with laws and regulations related to IRS filing requirements, governance, human resources, licensing, financial accountability, taxation, valuation of in-kind gifts, unrelated business income, document retention and destruction, related entities, data security, accessibility, fundraising, lobbying, and advocacy.
2. Nonprofits should periodically conduct an internal review of the organization's compliance with known existing legal, regulatory, and financial reporting requirements, and should provide a summary of the results to the board of directors.

B. Required Public Disclosures

1. Nonprofits should have at least one designated representative who is responsible for ensuring that the organization is complying with both the letter and the spirit of federal and state laws that require disclosure of information to the public.

C. Reporting Misconduct and Whistleblower Protection

1. Organizations must provide employees, board members, and volunteers a confidential means to report suspected impropriety or misuse of organizational resources. Organizations should have in place a policy prohibiting retaliation against persons reporting improprieties.

D. Conflicts of Interest

1. Nonprofits should have a written conflict of interest policy and statement. These should be applicable to board members and staff, as well as volunteers who have significant, independent decision-making authority regarding the resources of the organization. The policy and statement should be executed by covered individuals, both at the time of the individual's initial affiliation with the organization and at least annually thereafter.

   The conflict of interest policy should identify the types of conduct or transactions that raise conflict of interest concerns, should set forth procedures for disclosure of actual or potential conflicts, and should provide for review of individual transactions by the uninvolved members of the board of directors. The conflict of interest statement should provide space for the board member, employee or volunteer to disclose any known interests that the individual, or a member of the individual's immediate family, has in any business entity which transacts business with the organization.

E. Ethics

1. Nonprofits should ensure that they have an explicit and clear set of ethical principles and, as appropriate, operational or program standards that have been discussed by their board and staff and that are transparently clear to all stakeholders.
2. In rendering its programs or services, a nonprofit should act with the utmost professionalism and treat persons served with respect.
3. Nonprofits should provide an effective procedure for problem solving or reporting grievances, including but not limited to, legal or ethical misconduct by the organization's employees and volunteers. The procedure should include actions for addressing and resolving complaints effectively.
4. Nonprofits should have policies in place that protect the confidentiality and privacy of personal information.

FINANCE AND OPERATIONS

Guiding Principle:

Nonprofits should have sound financial and operational systems in place and should ensure that accurate records are kept. The organization's financial and non-financial resources must be used in furtherance of tax-exempt purposes. Organizations should conduct periodic reviews to address accuracy and transparency of financial and operational reporting, and safeguards to protect the integrity of the reporting systems.

A. Financial Budgeting, Reporting, And Monitoring

1. The board should annually approve the organization's budget and the organization should be operated in accordance with this budget.
2. The organization should periodically assess the organization's financial performance in relation to the budget. A nonprofit should create and maintain reports on a timely basis that accurately reflect the financial activity of the organization. Internal financial statements should be prepared at least quarterly, should be provided to the board of directors, and should identify and explain any material variation between actual and budgeted revenues and expenses.
3. The board should annually review the percentages of the organization's resources spent on program, administration, and fundraising.
4. For nonprofits with annual revenue in excess of $500,000, the annual financial statements should be subject to audit by a Certified Public Accountant. The board should hire the auditor. The full board should approve the audited financial statements and receive a copy of the management letter (if any). The board should monitor the implementation of the recommendations of the management letter, if applicable.

B. Internal Controls And Financial Policies

1. Nonprofits should have written financial policies that are adequate for the size and complexity of the organization. These policies should address investment of the assets of the organization, internal controls, purchasing, and unrestricted current net assets.

C. Personnel Policies

1. A nonprofit should have written, board-approved personnel policies and procedures that govern the work, actions, and safety of all employees and volunteers of the organization. The policies should cover the basic elements of the relationship (e.g., working conditions, telecommuting (if applicable), employee benefits, vacation, and sick leave). The policies should address orientation to the organization, employee evaluation, supervision, hiring and firing, grievance procedures, employee growth and development, and confidentiality of employee, client, and organization records and information.

D. Administrative Policies

1. A nonprofit should have written, board-approved administrative policies that are periodically reviewed by the board. At a minimum, these policies should address issues such as crisis and disaster planning, information technology, communications, and social media.

(Continued)

TABLE 6.2 ■ (Continued)

E. Risk Management And Insurance

1. Organizations should make every effort to manage risk and periodically assess the need for insurance coverage in light of the organization's activities and its financial capacity. A decision to forego general liability insurance coverage or Directors and Officers liability insurance coverage should be made only by the board of directors. The decision should be reflected in the minutes for the meeting at which the decision was made.

RESOURCE DEVELOPMENT

Guiding Principle:

The responsibility for resource development is shared by the board and staff. Nonprofit organizations depend on an array of sources of financial support. An organization's resource development program should be maintained on a foundation of truthfulness and responsible stewardship. Its resource development policies should be consistent with its mission, compatible with its organizational capacity, and respectful of the interests of donors, prospective donors, and others providing resources to the organization.

A. Resource Plan

1. Nonprofits should have a resource development plan in place. This plan should outline a framework for ensuring appropriate financial resources for the organization, and a reasonable process to evaluate cost effectiveness of all resource development activities. Ideally, the resource plan should include diversified income sources to avoid dependence on a single source. The resource development plan should be board approved, regularly reviewed, and in accordance with the organization's budget.
2. A nonprofit's fundraising costs should be reasonable over time. On average, over a five year period, a nonprofit should realize revenues from fundraising that are at least three times the amount spent on conducting them. Organizations whose fundraising ratio is less than 3:1 should demonstrate that they are making steady progress toward achieving this goal, or should be able to justify why a 3:1 ratio is not appropriate for their organization.

B. Sources of Income

1. When determining what types of income sources are pursued by a nonprofit to meet its mission, the organization should carefully consider the income source's impact on the population served, its demographics, and overall mission alignment. The organization should also assess these sources of income for feasibility and any associated risk.

C. Fundraising Activities

1. Solicitation and promotional materials should be accurate and truthful and should correctly identify the organization, its mission, and the intended use of the solicited funds.
2. All statements made by the nonprofit in its fundraising appeals about the use of a contribution should be honored.
3. Solicitations should be free from undue influence or excessive pressure, and should be respectful of the needs and interests of the donor or potential donor.

D. Donor Relationships and Privacy

1. Nonprofits should respect the donor's right to determine how their name and contact information is used, including providing opportunities to remain anonymous, request that the organization curtail repeated mailings or telephone solicitations from in-house lists, and have their names removed from any mailing lists which are sold, rented, or exchanged.
2. Nonprofits must honor the known intentions of a donor regarding the use of donated funds.

E. Acceptance of Gifts

1. An organization should have policies in place to govern the acceptance and disposition of charitable or in-kind gifts that are received in the course of its regular fundraising activities. These policies should include procedures to determine any limits on individuals or entities from which the organization will accept

a gift, the purposes for which donations will be accepted, the type of property which will be accepted, and whether to accept an unusual or unanticipated gift in light of the organization's mission and organizational capacity.

F. Fundraising on Behalf of the Organization

1. Resource development personnel, including both employees and independent consultants, should not be compensated based on a percentage of the amount raised or other commission formula.
2. When using the services of a paid professional fundraising consultant, organizations should only use the services of professional solicitors and fundraising consultants who are properly registered with the appropriate state authorities.
3. Organizations should exercise control over any staff, volunteers, consultants, contractors, other organizations, or businesses that are known to be soliciting contributions on behalf of the organization.

PUBLIC AWARENESS, ENGAGEMENT, AND ADVOCACY

Guiding Principle:

Nonprofits should represent the interests of the people they serve through public education and public policy advocacy, as well as by encouraging board members, staff, volunteers, and stakeholders to participate in the public affairs of the community. When appropriate to advance the organization's mission, nonprofits should engage in promoting public participation in community affairs and elections. As such, they should communicate in an effective manner to educate, inform, and engage the public.

A. Educating and Engaging the Public

1. Information about the organization's mission, program activities, finances, board members, and staff should be easily accessible, accurate, and timely (i.e., updated at least annually).
2. Nonprofits should provide a meaningful opportunity for the public to communicate with a representative of the organization.
3. Nonprofits should assure that any educational or advocacy information provided to the media and policy-makers, or distributed broadly, is factually accurate and provides sufficient contextual information to be understood.

B. Advancing the Mission through Public Policy and Advocacy

1. Nonprofits should have a written, board-approved policy on advocacy defining the process by which the organization determines positions on specific issues.
2. Working independently and in partnership, nonprofits should strive to influence public policies that affect the organization's ability to achieve its mission.

C. ENGAGING IN LOBBYING AND POLITICAL ACTIVITY

1. In promoting public participation in community affairs, charitable nonprofits must be diligent in assuring they do not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

Source: Reprinted with permission of the Standards for Excellence Institute, a project of Maryland Nonprofits, 2015.

The Standards for Excellence®: An Ethics and Accountability Code for the Nonprofit Sector identifies 6 major areas of nonprofit governance and management which contain 27 different topic areas. Each topic area includes specific benchmarks and measures that provide a structured approach to building capacity, accountability, and sustainability in nonprofit organizations. In addition to the code, the Standards for Excellence Institute® has developed a series of educational resources that include information on implementing specific standards, justification for the standards, best practices associated with the issue, model procedures and sample policies. These resources are available to members of the Institute and collectively cover each of the benchmarks in the Standards for Excellence code. Nonprofits that adhere to these benchmarks can become formally recognized or accredited by the Standards for Excellence Institute. The Standards for Excellence Institute also licenses individual consultants and regional and affiliate associations to offer various resources and trainings to nonprofits interested in implementing the Standards for Excellence code throughout their organization.

Learn more about the Standards for Excellence Institute and its signature programs at standardsforexcellence.org.

Transparency

In addition to the force of law and the desire to comply with voluntary guidelines, nonprofits also may be motivated to accountability by public scrutiny. As discussed earlier, Form 990 provides information that may be considered by donors, the news media, and others and that may reveal an organization's divergence from accepted best practices. Donors have online platforms on which they can provide their own reviews of organizations (greatnonprofits.org/). In addition, there is an increasingly influential array of charity watchdog organizations that proactively examine nonprofit organizations, applying their own standards. They are not really examples of self-regulation because some undertake their evaluations with or without the cooperation of the organizations on which they focus. They are an important force in creating increased transparency, and they have influence because of the visibility they enjoy, but they are also often controversial.

For example, among the best known may be the ratings of colleges and universities and hospitals by popular magazines, notably *U.S. News & World Report,* which have been shown to influence students' choices about where to attend college and patients' decisions about where to receive medical care. Such ratings surely do not have the force of law, but they are powerful. A negative ranking poses a significant potential threat to an organization, since publicity may deter potential customers, chill giving, or even invite scrutiny from government. And yet, many educators and hospital administrators do not agree that the standards by which *U.S. News* determines its rankings are appropriate or indicative of quality.

One well-known charity watchdog that operates at the national level is the Better Business Bureau (BBB) Wise Giving Alliance. Formed in 2001 through a merger of the National Charities Information Bureau and the Better Business Bureau's Philanthropic Advisory Service, the Wise Giving Alliance (hereafter, the Alliance) focuses its attention on the largest nonprofits in the United States. Since the BBB has a long history and an established reputation as an organization that acts to protect consumers against unethical business practices, the Alliance standards for nonprofits are among the best known and most widely cited in the news media.

The BBB undertakes investigations of an organization based on complaints or inquiries from the public (in the long-established tradition of consumers reporting businesses to the BBB). Nationally soliciting charities also may request a review in order to ensure compliance and may be eligible to use a "BBB national charity seal" in their promotional and solicitation materials. While the Alliance does not rate organizations, it does report whether they meet or do not meet its various standards, which are available on its website (www.bbb.org/us/Wise-Giving).

The BBB Standards for Charity Accountability are based on best practices; that is, they prescribe what accountable nonprofits should *do* in the areas of governance and oversight, measuring effectiveness, finances, fundraising, and informational material. They require that organizations have a mechanism for measuring results that involves the governing board, but it is important to note that they do not prescribe the *specific* standards that organizations must apply. The BBB standards require that organizations "have a board policy of assessing, no less than every two years, the organization's performance and effectiveness and of determining future actions required to achieve its mission." And the organization must submit "to [its] governing body, for its approval, a written report that outlines the results of the aforementioned performance and effectiveness assessment and recommendations for future actions" (BBB Wise Giving Alliance, 2003). In other words, the BBB standards emphasize process and accountability, but they are not about setting specific standards of effectiveness or performance, aside from a couple of key financial ratios, which we will discuss soon.

Many nonprofit organizations have accepted the idea of best practices, adhere to one or another of the recommended standards, and have sought some type of accreditation or certification. It may be that in addition to the potential threat of negative publicity, the widespread acceptance of voluntary standards reflects, as Light (2000) suggests, institutional theory at work. Enunciated standards become a part of the conventional wisdom of what constitutes ethical or sound practice and are increasingly adopted by organizations that seek recognition for being consistent with the norms of the subsector or profession within which they operate.

But the questions remain: Does doing the right things ensure that the organization is effective in accomplishing its mission? Or that it can be described as a high-performing organization? Is there some mechanism that automatically leads from best practices in governance and management to a successful nonprofit organization? Robert Herman and David Renz (2008) advise caution on this question:

> The popularity of "best practices" attests to the hope of finding a pot of gold at the end of the search. One key assumption of the best practices approach is that a particular technique or process that works well in one setting can and should be incorporated into other different settings. This may be true for certain rather common administrative functions, particularly those that must comply with externally mandated standards such as the adoption of procedures to ensure adequate internal controls. However, in many instances a practice that enhances effectiveness in one organization may be a poor choice for another. (p. 411)

In a 2015 study, Kellie Liket and Karen Maas surveyed both the academic literature and nonprofit managers and found that they agreed on 26 practices that they believed to be related to organizational effectiveness, including some related to transparency; to the focus, strategy, and board of the organization; and to the organization's programs. But in reflecting on their findings, they also sound a note of caution, writing, "due to the absence of consensus on the concept and measurement of [organizational effectiveness], it is not possible to empirically validate the recommended set of practices." In other words, it is difficult to determine what leads to effective when there is not agreement on how effectiveness should be defined or measured. Let's take a look at some approaches to doing so.

Measuring Performance

If doing the right things does not guarantee that the organization is effective in achieving its mission, then we need some standards by which to evaluate results. But how should results be defined, and how should they be measured? The subject has been the focus of national conversation in recent years, but there are still differences in view and a somewhat inconsistent vocabulary in the field. Distinctions among terms and concepts are important.

For example, there may be a difference between the performance of a nonprofit's *programs* and the performance of the *organization* as a whole. Let's first consider the performance of programs.

Performance management is "the process of defining, monitoring, and using objective indicators of the performance of organizations and programs to inform management and decision making *on a regular basis* . . . [italics added]" (Poister, Aristigueta, & Hall, 2015, p. 1). In other words, it is an *ongoing*, internal process used to collect and analyze data in order to track the effectiveness of programs *continuously*. There are a growing number of tools available to help nonprofits develop performance management systems. For example, in 2012, the Urban Institute, Child Trends, and Social Solutions collaborated to develop tools for measuring the performance of programs against data drawn from research. The resources are available on the PerformWell website (www.performwell.org). In addition, the volume and sophistication of available data have increased in the first decades of this century through the development of data analytics, data visualization, and "big data" (Hatry, 2014).

Program evaluation is another method that many nonprofits use to determine whether specific programs are effective in achieving results. As one prominent text explains, a program "is a set of resources and activities directed toward one or more common goals, typically under the direction of a single manager or management team" and program evaluation is "the application of systematic methods to address