

An Eye for Ethics: Quelling Confusion about Ethical Quandaries



By Melanie Lockwood Herman

Executive Director

Resource Type: Articles

Topic: General

Most nonprofit leaders would enthusiastically agree that ethical conduct and core values are key to the success of their community-serving missions. Yet among your co-workers and peers, how acute is awareness of ethical dilemmas in every-day decisions? Do colleagues have the skills and patience to slog through ethical questions when they are pressured to take action, or support their superiors? Do we erroneously assume that unethical behavior doesn't happen under our watch or that staff teams are truly motivated and empowered to report ethical breaches? In their *Harvard Business Review* article "Ethical Breakdowns," authors Max Bazerman and Ann Tenbrunsel write that intentional malfeasance is rare, but "Much more often, we believe, employees bend or break ethics rules because those in charge are blind to unethical behavior and may even unknowingly encourage it." (See "[Ethical Breakdowns](#)," *Harvard Business Review*, April 2011.)

Research on ethical behavior, corporate ethics policies and trends from the Ethics and Compliance Initiative (www.ethics.org) offer a number of startling revelations, such as:

- *Leaders may wear rose-colored lenses* – Leaders may have a "rosier view of the state of workplace integrity, and often have more positive beliefs than employees further down the chain of command."
- *Relationships impact inclination to report* – According to ECI, "The quality of the relationship between supervisors and reports goes a long way in determining whether employees report workplace integrity issues to management."
- *Gender affects how staff experience workplace ethics* – In the National Business Ethics Survey (NBES®) study of gender in the workplace, ECI reports that "women in senior leadership positions are more likely than men at the same level to feel pressure to compromise company ethics standards and/or the law."
- *Poor ethics is pricey* – High turnover and low productivity are two of the costly consequences of a culture that tolerates workplace misconduct.
- *Managers lapse more often than the rank and file* – 60 percent of workplace misconduct has been attributed to managers, with senior managers more likely than lower-level managers to break the rules.
- *Fear of retaliation persists, despite the prevalence of policies prohibiting payback* – An estimated one-third of employees who decline to report misconduct cite fear of punishment as the principal reason.

Are Ethical Boundaries Black and White, or Grey All Over?

Although some leaders believe that ethics is truly black and white—either behavior is ethical or it isn't—many

more recognize that there are substantial areas of grey.

Some of the scenarios we've encountered at the NRMC include:

- A request from a partner to use the word *agreement* instead of *contract* in the title of a contract between two organizations. Our guess is that use of the word *contract* triggers an organizational policy requiring legal review of all contracts. We all know what happens when a lawyer gets hold of a draft contract!
- A request to word the description of services provided on an invoice in a manner that feels disconnected from the services actually provided.
- A request to discount the cost of a NRMC product or service—from an organization that has a longstanding relationship with NRMC.
- A board determining whether it is an acceptable conflict of interest for a highly experienced board member to serve as the organization's insurance broker, for a nominal brokerage fee.
- An executive team questioning whether results of a staff engagement survey should in fact be shared with staff (the people who participated in the project initially).
- An executive desiring to let go an employee due to poor performance, but instead hiring another manager to supervise the employee, in the hopes of avoiding a wrongful termination claim.
- A team leader verbally championing the importance of safety policies, but allowing his team to continue working while a fire alarm sounds throughout the building.
- A nonprofit accepting a major gift—with strings attached—that demands programmatic expansion unrelated to the organization's mission and adopted strategic goals.
- A nonprofit's CEO frequently emphasizing and reminding her team about the importance of achieving defined revenue targets, which is sometimes interpreted as "the ends justify the means"—putting the financial bottom line over the manner in which funds are raised.

Many Hats, Myriad Perspectives

Nonprofit leaders who serve as champions of ethical conduct in their organizations wear a variety of hats, from Ethics & Compliance Officer to General Counsel to Director of Risk & Compliance, Risk Manager and more. To tap into the diverse perspectives of these leaders, I asked several members of the NRMC board to weigh in on my top of mind questions about practical issues related to ethics.

Joining me for to answer my top-of-mind questions about ethics in a nonprofit workplace are:

Carolyn Gulston, Director of Risk Management, National MS Society

Kitty Holt, Ethics & Compliance Officer, Plan International USA

Donna McPartland, Counsel, Arent Fox LLP

Mary Ann Riesenberg, Director of Strategic Initiatives, Consultance Accounting

Pat Vaughan, General Counsel & Secretary, Population Council

Melanie: In your experience, are there any common misconceptions about ethics held by nonprofit staff or volunteer leaders?

Mary Ann: Since nonprofits are often charitable organizations and may serve those in the community, there is sometimes a misconception that unethical behavior, including fraud, is less apt to happen in this altruistic environment (i.e., "We do good, so we *are* good"). Like any company that employs people, there's the risk of ethical challenges, so it's important for nonprofits to have an ethics policy and train employees and volunteers on organizational values and expectations.

Carolyn: Yes, I do think that there are some who feel that because you work for a nonprofit organization you typically hire highly compassionate, committed, altruistic individuals who are ethical. However, I feel ethics is behavior that is ingrained—you either have it or you don't. To think that everyone working in the nonprofit sector is more prone to be an ethical individual is a misnomer.

Pat: I have encountered individuals working in nonprofits who mistakenly think that rules, including "ethical" standards are different because they are working in a "non-commercial" "mission oriented" setting. In these instances, they don't view their conduct as "unethical" because they believe that compromises are acceptable and in some cases required, in order to achieve the "mission." Changing this orientation requires leadership's

active commitment to establish, publish, and train staff and volunteers about the organization's ethical standards and the consequences and accountabilities for the breach of these standards.

Melanie: Are there true grey areas that nonprofit staff members find it especially hard to navigate?

Kitty: While our organization has not found this to be the case because we have policies in place, one grey area could be a donor wanting to make a large gift towards something a particular nonprofit cannot deliver on. It can be hard to walk away from a large sum of money, but a reputable non-profit will tell the donor they cannot do what the donor wants, work with the donor to find other areas of interest within the organization, and, if that is not possible, to let the donor know about other organizations doing the work the donor wants to support.

Mary Ann: Conflicts of Interest is one of the areas that may be hard for nonprofits to navigate. It's hard to us to see our own potential conflicts of interest, so it's important for someone independent of a situation to provide advice on managing real or perceived conflicts. Having a clear conflict of interest policy and providing specific examples of the various types of conflicts that might occur, is a good practice.

Carolyn: Individuals responsible for generating revenue to support a mission often struggle to balance creative fundraising with policies focused on safety. There is pressure to push the envelope to offer unique events, but that may be in conflict with the commitment to provide a safe environment and minimize the risk of physical harm.

Pat: My organization works in 50 countries, conducts research in several subject matter areas including biomedicine which involves human participant research. The nature of the work and the variety of locations and cultures where work is conducted can give rise to ethical matters. In this type of complex setting, in order to address the various issues that could arise (black, white or grey areas), in addition to policies and procedures, and training, it is important to officially designate individuals or teams that have the expertise to provide guidance and/or to make determinations on these issues. For example, an Institutional Review Board reviews all ethical issues pertaining to scientific research. The size and scope of the formal designation(s) will depend upon such factors as the nature of the work and complexity of the particular organization.

Melanie: Modeling ethical behavior and setting a tone from the top is often mentioned as key to creating an ethical culture. In your experience, is this harder than it sounds? In what ways might a leader unintentionally send miscues to their staff?

Donna: In my experience, it is harder than it sounds. For instance, leaders might ask for abbreviated training. The importance of an executive sponsor at the highest levels cannot be over emphasized, as you absolutely need to have ethics and compliance really resonate, engage and filter throughout the organization.

Carolyn: I do think that there may be instances where a leader's actions may not reflect his or her core values (i.e. excellence, leadership, compassion etc.). It's important to remember that members of your team will ultimately focus more of their attention on what you *do*, and less so on what you *say*.

Pat: I am a member of my organization's Executive Team (ET) and I don't think it is hard at all. This might be because of my role as General Counsel. For me, doing things in an ethical way makes things clear, less complicated, and avoids problems now and in the future.

Melanie: What are the upsides and downsides of using a third-party hotline as a reporting tool for ethics concerns? What tips would you suggest to a leader considering the use of a hotline?

Donna: I've had experience with third party helplines and it was very positive, especially for multinational organizations. Providing multilingual, 24/7 help can be really beneficial for staff. Administration was much easier also. The principal downside is the cost.

Kitty: If considering going to an external hotline, I would speak with a few peer organizations and understand their experience with hotlines. From our experience, this is just one more option for employees to speak up if they are not comfortable speaking up internally for any reason at all. We would rather have someone report a concern to an external vendor than not speak up at all, or go around official channels.

Pat: An organization should want to hear about concerns so that they can be properly addressed in a timely

manner. The hotline should be one of several reporting options for the staff. Also, it is helpful for staff who are in different time zones from headquarters. Periodic assessment of use and effectiveness are always a good idea. If a hotline is not going to be used the organization must assess the risk of not having it. In addition, the organization should have a defined internal response procedure and designated person/team to respond in a timely manner to a matter when it arises.

Inspiring Ethical Leadership

Offer your board and staff teams a few practical ethics resources and exercises to help them apply the values your mission was built on:

1. *Ask, Don't Assume* – While it may be comforting to assume that employees see your nonprofit as an ethical workplace, your comfort may be ill-founded. To track how your team sees and perceives the ethical landscape, consider adding questions or statements about ethics to an employee survey. The following statements can be used with “yes-no” answer options, or a scale, such as 1 = Strongly Disagree, to 5 = Strongly Agree.
 - Managers earn my trust by consistently demonstrating high ethical behavior.
 - Senior leaders act in ways consistent with our Code of Conduct.
 - ABC Nonprofit clearly communicates its expectations of ethical behavior.
 - I am personally responsible for reporting improper conduct.
 - I feel it is safe to speak up.
 - I am confident that if I report unethical conduct something will be done about it.
2. *Go Custom, Versus Canned* – One of the oft-heard complaints about staff training on ethics is that canned material falls flat. This may be especially true in a nonprofit that purchases training videos or other materials intended for use in a for-profit. The most valuable training is relatable and familiar. Instead of borrowing dated materials, consider developing a short video highlighting the key messages of your Code of Conduct (or Ethics), several plausible ethics scenarios, and the steps an employee should take if they find themselves in an ethical quandary.
3. *Apply the Four PLUS Filters or the Cisco Ethics Decision Tree* – Many organizations use an ethics ‘filter’ or framework to guide decision-makers to make thoughtful and ethical choices. The PLUS filters are part of the PLUS Ethical Decision Making Model from ethics.org. When facing a decision with ethical dimensions, ask four questions:

P = Policies: Is it consistent with my organization’s policies, procedures and guidelines?

L = Legal: Is it acceptable under the applicable laws and regulations?

U = Universal: Does it confirm to the universal principles/values my organization has adopted?

S = Self: Does it satisfy my personal definition of right, good and fair?

A similar framework is the “Ask yourself” – Ethics Decision Tree, from Cisco. Available [online](#), the framework invites decision-makers to ask themselves a series of six questions before making a decision with ethical implications:

- Is it legal?
- Does it comply with Cisco policy?
- Does this reflect Cisco values and culture?
- Could this adversely affect company stakeholders?
- Would you feel concerned if this appeared in a news headline?
- Could this adversely affect Cisco if all employees did it?

With each step, employees are guided on what to do if after asking the question, they aren’t sure. For example, *Not Sure (if it’s legal)?* Contact the legal team for guidance. At each step in the framework employees are reminded that based on whether they answer “No” or “Yes” to each question, “the action may have serious consequences. Do not do it.”

4. *Provide a Clear, Not Convuluted Path* – Doing nothing in the face of an ethical dilemma is unacceptable in a nonprofit that values high ethical behavior. Sideline an overly wordy policy in favor of a Conduct of Conduct with simple “I Will” and “I Won’t” statements. At NRMC one of our go-to resources for board

training is a customizable Board Code of Conduct. The resource we use features statements such as:

As a member of the Board I will:

- Respect and support the decisions of the board, including in instances where I voted against a particular action
- Share any concerns I have about ethical aspects of pending board decisions
- Recognize that all authority is vested in the board as a whole and not with individual members
- Refer complaints from stakeholders of the nonprofit to the appropriate person in the chain of command
- Call to the attention of the board any issues that I believe will have an adverse impact on the nonprofit's mission and programs

As a member of the Board I won't:

- Be critical, in or outside of a board meeting, of other board members or their opinions. This does not restrict me from respectfully disagreeing with another board member
- Use the nonprofit or its assets for my personal advantage, or the personal advantage or benefit of my friends or relatives
- Discuss the confidential proceedings of the board outside a board or committee meeting

Now it's time to remove your rose-colored lenses and quell any confusion in your workplace that might make your nonprofit vulnerable to ethical breakdowns. Honor your stakeholders and yourselves by putting ethics before everything else.

Melanie Herman is Executive Director of the Nonprofit Risk Management Center. She welcomes your questions about ethical challenges facing nonprofit leaders at Melanie@nonprofitrisk.org or 703.777.3504.

Ethics Resources

ASAE Ethics Committee – Ethical Decision-Making Models

– <http://info.ahredchair.com/blog/asae-launches-the-ethical-decision-making-model-flow-chart>

PLUS Ethical Decision Making Model – www.ethics.org/resources/free-toolkit/decision-making-model

Ethics Decision Tree –

www.cisco.com/c/en/us/about/corporate-social-responsibility/ethics-office/decision-tree.html

“Boiling the Frog: Fighting the Slippery Slope of Ethical Indiscretions in the Workplace,” RISK eNews –

[www.https://nonprofitrisk.org/resources/e-news/boiling-the-frog-fighting-the-slippery-slope-of-ethical-indiscretions-in-the-workplace/](https://nonprofitrisk.org/resources/e-news/boiling-the-frog-fighting-the-slippery-slope-of-ethical-indiscretions-in-the-workplace/)

“Ethical Breakdowns,” by Max H. Bazerman and Ann E. Tenbrunsel, *Harvard Business Review*, <https://hbr.org/2011/04/ethical-breakdowns>

“Creating an Ethical Workplace,” by Dori Meinert, Society for Human Resource Management, www.shrm.org/hr-today/news/hr-magazine/pages/0414-ethical-workplace-culture.aspx

Association of Fundraising Professionals, Code of Ethical Standards – www.afpnet.org/files/ContentDocuments/CodeofEthics.pdf