Charity Gone Wrong: Unethical & Illegal Conduct

By Erin Gloeckner

Resource Type: Risk eNews

Topic: General

NRMC team members sometimes field calls from concerned nonprofit staff members, volunteers, board members, and even members of the public, who worry that a cherished nonprofit is involved in unethical or illegal conduct. Oftentimes, the inquiring individuals lack the authority to investigate or resolve the issues they report to us. Some report that the nonprofit's leaders know about the misconduct and refuse to take action.

In these brief phone calls, the NRMC team lacks the context needed to provide ample guidance that could lead to a resolution. Luckily, we *can* guide concerned stakeholders to follow pathways that might help them achieve results.

If You Suspect Unethical or Illegal Conduct

Depending on the nature and severity of the misconduct, you might report to third parties with the authority to investigate. In most cases, try to explore the issue internally before seeking external assistance.

- **Frame Your Fears** – Before bringing a concern to light, consider that you (definitely) don't have a full understanding of the issue. We each only have a personal lens through which to observe the environment. At NRMC we have fielded many calls over the years from individuals ready to take knee-jerk reactions, possibly to flawed conclusions. Another aspect of framing your concern is describing the concern in a non-accusatory way, which might keep the conversation objective and reduce the possibility of retaliation. For example, "I'm concerned that we're not following our grant reporting policies and that it could have significant consequences during a funder audit," versus "Joe on the programs team is deliberately and illegally falsifying grant reports!"
- **Classify Your Complaint** – Some concerns are most appropriate to report directly to your supervisor or to HR. Your supervisor should handle questions or complaints about your role, goals, and projects. HR is the first stop to submit concerns and questions about employment policies, including complaints about workplace harassment and discrimination. Some HR-related complaints might be elevated to state labor departments or human relations/EEOC agencies, which typically handle claims and complaints about wage and hour or civil rights violations. Many nonprofits also have a complaint or grievance process for submitting serious complaints. Learn more from our article, "Grievance Procedures & Internal Dispute Resolution." Want to develop a grievance policy? Find customizable templates in our policy development web app: My Risk Management Policies. If your concern involves serious ethical or illegal misconduct not described above, then move to tip #3 below.
- **Share Your Suspicions** – If your concerns truly involve ethical or illegal misconduct, then review any policies in place at your organization and follow them closely. In Part VI of the Form 990 (Section B.

Policies), the IRS ask if your organization has a written whistleblower policy. Since this question was added, many nonprofits have adopted a whistleblower policy. Some whistleblower policies contain information about the process for making a report. Most policies focus on a statement prohibiting retaliation against employees who raise concerns to management, the board, or even external regulatory agencies regarding potentially illegal conduct. If you don't have a policy, create one with My Risk Management Policies, which offers templates for an Ethics Policy, an Ethics Hotline Policy, a Whistleblower Protection Policy, and more. Again, whistleblower procedures and ethics hotlines are usually intended to be used for reports of suspected ethical or legal violations, such as fraud, bribery, corruption, theft, dishonesty, or other serious unethical behaviors. Many organizations offer multiple avenues for you to report serious suspicions, so hopefully you can choose a reporting procedure most comfortable to you.

- **Exhaust Alternative Avenues** – Reporting internally does not always result in an appropriate or thorough response from nonprofit leadership. If you feel that your report was ignored or was handled poorly, your organization's complaint or ethics policy might provide alternative internal reporting avenues. Report your concerns to an alternative leader named in the policy, or if needed, report to another executive staff member or board member. Don Kramer, chair of Montgomery McCracken's Nonprofit Practice Group and author of *Nonprofit Issues*, shares in his recent post on misconduct that "The more of you who join in the reporting, the more likely the organization is to take it seriously."
- **Seek Outside Support** – If reporting your concern internally gets you nowhere, consider reporting your serious ethical or legal concerns to a third party with the authority to investigate. One option is reporting directly to law enforcement. Another option is reporting to a state government, which exercises regulatory authority over the nonprofits incorporated within the state. In some states the office with oversight responsibility—including the authority to investigate serious complaints—is the office of the state attorney general, while in other jurisdictions it is the secretary of state's office or a separate department of consumer protection. If you believe that an organization's assets are being used for personal gain, to support illegal activities, or that the nonprofit is engaged in any conduct that violates federal tax law, see IRS Form 13909: Tax-Exempt Organization Complaint (Referral).

The nonprofit sector is founded on values such as service, integrity, and trust. For service to remain truly unselfish and meaningful to the communities you serve, you and your nonprofit team members must preserve your integrity at all costs. Strive to reduce artificial and unnecessary barriers to bringing employee, volunteer, and client concerns to light. Welcome reports and provide multiple avenues for stakeholders to speak up. Enforce whistleblower protections and condemn retaliation. When you feel compelled to report a concern, remain courageous and refuse to be compromised.

"One of the truest tests of integrity is its blunt refusal to be compromised." – Chinua Achebe, author and professor

Resources:

- An Eye for Ethics: Quelling Confusion about Ethical Quandaries
- COI: Candor or Inhibition? Managing Conflicts of Interest
- Clash of the Nonprofit Titans: Managing Board and CEO Conflicts
- We Can Work it Out: Managing Workplace Disputes
- The Dark Side of Leadership
- Conflict Infographic
- Exposed: A Legal Field Guide for Nonprofit Executives

Erin Gloeckner is the former director of consulting services at the Nonprofit Risk Management Center. NRMC invites you to share your ethics questions and insights at 703.777.3504 or info@nonprofitrisk.org.