

PUBLICATION

IRS Announces Good Governance Practices for Exempt Organizations

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The Internal Revenue Service recently announced a number of governance practices it considers important for exempt organizations in carrying out their exempt purpose. Although the Service has no authority at this point to impose these practices on exempt organizations, it is clear that the Service will consider these in evaluating whether an organization is fulfilling its charitable purpose. Many of the recommendations are already being used by many exempt organizations, although there are some recommendations that suggest the Service is focusing on new areas of governance, such as codes of ethics and whistleblower policies.

The Service made ten specific recommendations in its "good governance practices" advice. The guidelines specifically recommend:

1. Adopting a clearly articulated mission statement that states why the charity exists, what it hopes to accomplish, what activities it will undertake and who it will serve;
2. Adopting and regularly reviewing a code of ethics and whistleblower policy;
3. Establishing policies for directors to exercise due diligence to be fully informed of the charity's activities and financial status in order to fulfill their duty of care and act in the charity's best interests;
4. Adopting and regularly reviewing a conflict of interest policy to ensure directors fulfill their duty of loyalty to the charity;
5. Providing full and accurate information about the charity's mission, finances and activities to directors, regulators and the public in an easily accessible format, such as on a website;
6. Implementing policies to promote truthful, accurate and candid fundraising activities that are compliant with state and federal laws, along with discriminating selection of reputable paid fundraisers;
7. Regularly reviewing financial data, and for charities with significant assets, providing for independent audits with auditors rotated every five years;
8. Except in extraordinary cases, avoiding paying directors any compensation other than reimbursement of expenses;
9. Fixing officer and staff compensation using the rebuttable presumption method in Section 4958; and
10. Establishing and regularly reviewing document retention, integrity and destruction policies.

The recommendations by the Service will in many cases be consistent with, or in some cases less burdensome than, the current practices of an organization. However, the list provides a good opportunity to review a charity's governance practices and determine whether they can be improved in light of the Service's recommendations.