

BOARD ACCOUNTABILITY ASSESSMENT TOOL

“Charitable organizations with the greatest likelihood of satisfying emerging public expectations will be those that take all measures necessary to ensure that the conduct of their directors, officers, and employees reflect the highest ethical standards appropriate to the organization’s structure and mission. To settle for less is to run the risk that the charitable organization’s reputation for integrity will be weakened, its respect by the community will be diminished, and its ability to fulfill its mission will be imperiled.”

Tom Silk, *Ten Emerging Principles of Governance of Nonprofit Corporations and Guides to a Safe Harbor*. Silk, Adler & Colvin, 2004.

Overview of Accountability Assessment Tool

Beginning on page 3, we offer a tool that your organization can use to assess your board’s performance in areas of accountability. The tool is meant as a starting point for understanding what kinds of practices, principles and behaviors are already embedded in your organization – and which ones might require a more proactive effort to create and use.

We strongly encourage you to include board, staff and other significant players in the discussion about which accountability practices are right for your organization. It may be difficult to go through the entire assessment in one session. To help you with the process, we have divided the list into ten categories, each of which is preceded by some information about how to assess your organization in that area. Consider going through one category per session:

1. Governance
2. Establishing an Ethical Tone and Culture of Integrity
3. Financial Practice and Disclosure
4. IRS Form 990 and Other Reporting
5. Internal Controls
6. Audit and/or Financial Review
7. Program Management
8. Fundraising Management and Reporting Requirements
9. Compensation and People Management
10. Public Trust

Two caveats: First, the practices, principles and behaviors listed in the assessment are meant to be aspirational, not mandatory. Second, because each organization operates in a different jurisdiction and under different licenses, laws and regulations, the assessment cannot be comprehensive for all nonprofits. It covers the major requirements of state and federal laws affecting nonprofit integrity, but it is certainly not a complete list of state and federal charitable trust laws and regulations. Therefore, it may not include all of the accountability requirements your organization needs to address. You can incorporate your own organization’s requirements into the assessment to provide a fuller understanding of your own accountability.

How to Use the Accountability Assessment Tool

1. **Identify your audiences.** Begin your assessment by identifying the multiple audiences to whom your organization is accountable. Possible audiences include government regulators, the board of directors, clients, members, donors (including individuals, foundations and corporations), employees, other nonprofits, associations or membership groups to which your organization belongs, your community and the public.
2. **What do your audiences expect, want or require of you?** Spend some time determining what your different audiences want or expect of you. It may be easy to define what regulators want but more difficult to figure out how to be accountable to the community or your clients. The best action may be to actually ask your many audiences what they want from you and how you can best be accountable to them.
3. **What kind of accountability will you provide to each audience?** The list of practices, principles, and behaviors below may be helpful. There might practice or principle may not be on the list. We have provided blank spaces at the end of each section where you can write in practices, principles, and behaviors that apply *uniquely* to your organization.
4. **Rate your current performance.** How well does your organization perform each practice or behavior? We suggest you use the following scale:
1 = always
2 = usually
3 = rarely
4 = never
5 = doesn't apply to us or don't know
5. **Based on your rating, is improvement needed?** If so, what is the plan for improvement? Are there some red flags that indicate a need to build better understanding or better implementation of a specific practice or behavior? Are there potential areas of risk that need to be addressed immediately? Are there areas of broad or subtle disagreement between board and staff about the level of performance of a particular practice or behavior? How can you do it better? Do you just need to be more transparent or visible in how you demonstrate your performance of this task? Or is specific skill building or training needed?
6. After each statement, there is an identification code that tells you why this practice is recommended. These codes might help you to determine how to be accountable to your many audiences. Categories and their correlating codes include:
 - **AG** – California law regarding nonprofit charitable organizations and the state **Attorney General's** supervision of charities.
 - **NIA** – California **Nonprofit Integrity Act** of 2004 (SB 1262). The financial requirements apply only to nonprofits with budgets over \$2 million a year. The fundraising requirements apply to nonprofits of all budget sizes.
 - **IRS** – Rules and regulations of the **Internal Revenue Service**.
 - **LL** – California **Labor Law**.
 - **SOX** – Federal **Sarbanes-Oxley Act** requirements.
 - **GP** – Generally accepted **good practice**.

ACCOUNTABILITY ASSESSMENT TOOL
Practices, principles and behaviors

Reminder of Answer Key:

- 1 = always
- 2 = usually
- 3 = rarely
- 4 = never
- 5 = doesn't apply to us or don't know.

Governance						
Ultimately, responsibility for meeting legal and management obligations of the nonprofit organization, even when these duties are delegated to staff, rests with the board of directors.						
	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
	1	2	3	4	5	
Practice/Activity						
1. <i>Focus is on mission and purpose:</i> In a reasonable and accountable manner, the board makes sure the organization accomplishes the mission and central purpose for which it was established. (AG Duty of Obedience)						
2. <i>Governance is attentive:</i> Board members review and discuss relevant information before making decision,, provide appropriate oversight of activities (particularly those of senior management) and demonstrate independent judgment. (AG Duty of Care)						
3. <i>Board understands its role:</i> The board has defined (and periodically redefines) the roles and responsibilities it is to play and measures its performance at least annually. (GP)						
4. <i>There is a visible and consistent commitment to diversity.</i> Board membership reflects the diversity of the communities the organization serves. (GP)						

<p>5. <i>Bylaws are followed:</i> Board members act in accordance with, and have copies of, bylaws , (IRS and AG)</p>								
<p>6. <i>Board provides direction:</i> The board regularly frames overall policies, goals and objectives for the organization in partnership with staff and other stakeholders. (GP)</p>								
<p>7. <i>Conflict of interest policy is rigorously enforced:</i> Board members avoid personal or business relationships – real or perceived – that place them in a conflict of interest with the organization. A written procedure for disclosing such conflicts is rigorously followed. Board members excuse themselves from discussion and voting when they have a conflict. (GP and AG Duty of Loyalty)</p>								
<p>8. <i>Board members are independent:</i> Although the AG allows 49 percent of the board to be interested parties, the organization has a policy and practice that board members are independent and not compensated for common board services. (GP) <i>There are circumstances when a good argument can be made about why board members should be paid for service. However, CAN believes that payment for board service clouds motivation for board membership, therefore, CAN does not recommend this practice.</i></p>								
<p>9. <i>Out-of-pocket costs are reimbursed:</i> There is a policy for reimbursement of out-of-pocket expenses related to the board role, Board members are paid applicable United States government rates or an established and published nonprofit rate is set. (GP)</p>								

<p>10. <i>No loans, self-dealing or personal inurement:</i> No personal loans, special access or financial benefits are given because of board membership. (GP and AG. Loans are generally prohibited by the AG except under very specific circumstances.)</p>								
<p>11. <i>Compliance and reporting requirements are known and regularly reviewed to identify possible threats to tax-exempt status:</i> The board requests and receives an annual internal review of the organization’s compliance with legal, regulatory and financial reporting requirements in a timely and appropriate manner. Appropriate corrective action is taken as needed. (GP)</p>								
<p>12. <i>Minutes are done well, and copies of all minutes are stored indefinitely:</i> Board minutes are a complete, substantive and accurate story of all material subjects discussed, as well as what transpired at each meeting, not a verbatim transcript of everything that was said. (Minutes are considered legal documents by auditors, IRS and the courts, and they represent the actions of the board. It is often assumed that if it is not in the minutes, it did not happen.)</p>								
<p>13. <i>Board evaluates itself:</i> The board engages in an annual self-assessment of individual board members, the board as a whole and board committees. The self-assessment is based on concrete results tied to the mission, not just the level of activity produced by the board. (GP)</p>								

. Ethical Tone and Culture of Integrity						
The organization takes all measures necessary to ensure that the conduct of its directors, officers and employees reflects the highest ethical standards.						
Practice/Activity	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
	1	2	3	4	5	
14. <i>Organization follows laws and regulations:</i> The organization complies with all applicable federal, state and local laws and reporting requirements. <i>It is registered with and regularly files its annual report with the state Attorney General's office.</i> (AG Duty of Obedience)						
15. <i>Principles guide decisions and behaviors:</i> With staff and other stakeholders, the board has adopted values or principles that guide individual and organizational ethical behavior, visioning, planning and budgeting. These values and principles are regularly reviewed and updated. (GP)						
16. <i>Whistleblowing is encouraged:</i> Employees, board members and others know they can report any suspected or known ethical issue or potential violation of the law to a designated person without fear of retaliation or retribution. All complaints are investigated and any problems are corrected – or there is clear communication from the board or the executive director about why corrections are not necessary. (SO and GP)						
17. <i>Both board and staff declare conflicts of interest:</i> Board and staff affirm in writing that they have no conflicts of interest, or they declare any potential or existing conflict of interest openly and in writing. (GP)						

Financial Practice and Disclosure						
Good, accurate, timely financial accounting and reporting is absolutely essential to your organization's health and well-being. The summarized data should be used to inform the board, staff and other interested parties about the overall financial picture of the organization, as well as about the specifics of each program and activity.						
<i>Practice/Activity</i>	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
	1	2	3	4	5	
18. <i>Board approves budget:</i> The board approves annual budgets that include anticipated expenditure and income pertaining to programs, management and fundraising. (GP)						
19. <i>Knowledgeable people do the accounting and prepare the financial reports:</i> The staff member or volunteer responsible for financial reporting and accounting has experience and expertise in nonprofit accounting. (GP)						
20. <i>Board tracks the organization's financial health:</i> The board receives and regularly reviews income and expenditure reports, balance sheets and cash flow reports (no less than quarterly and preferably monthly) and by comparing the current actual financial circumstances with projected budget, decides if corrective action is needed. (Board Duty of Care and GP)						
21. <i>Board members understand the financial documents they read:</i> Board members ask for and receive ongoing training on how to read and understand financial reports. (GP)						
22. <i>Board regularly questions financial information:</i> Questions are answered fully and promptly. (GP)						

<p>23. <i>The board or finance committee monitors investment performance:</i> All income is invested to gain the highest possible return with the lowest possible risk. The board monitors investments and makes changes prudently. (GP)</p>							
<p>24. <i>Board members understand their personal liability:</i> Payroll taxes (and sales taxes) are areas of personal liability to board members. Board members make sure all taxes are properly paid and understand that they could be personally held accountable for unpaid payroll and other taxes. (Board members' private bank accounts can be attached by the IRS to pay taxes that have not been paid by the nonprofit corporation.) (GP)</p>							

IRS Information Form 990

As the only required financial reporting for virtually all nonprofits, Federal Tax Form 990 is the single most widely available source of information about nonprofit organizations in the United States. All nonprofits registered with the IRS must file the 990 return annually (exceptions include religious organizations and nonprofits with an annual income of less than \$25,000). Organizations with gross receipts of less than \$100,000 and total assets less than \$25,000 at the end of the year may file Form 990-EZ; private foundations file a Form 990-PF.

	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
Practice/Activity	1	2	3	4	5	
<p>25. <i>Form 990 is reviewed by the audit and/or finance committee:</i> Following committee review, Form 990 is reviewed by the full board and executive staff prior to filing. (GP)</p>						
<p>26. <i>Top executive and financial officers sign off on all financial statements including Form 990:</i> IRS Form 990, Form 990-PF and accompanying schedules are signed by an officer after being examined and found to be accurate, reasonable and complete. (IRS)</p>						

<p>27. <i>Form 990 is available to the public:</i> The organization makes its Form 990, Form 990 EZ, 990-PF, 990-T and/or Form 1023 available to anyone who asks to see it. These forms are available in all headquarters and regional offices with three or more staff. (Public law, IRS)</p>								
<p>28. <i>Organization posts Form 990 on its website:</i> Posting financial information on websites allows organizations to be more visible and transparent. (GP)</p>								
<p>29. <i>Other 990 and reporting requirements for our organization's accountability:</i></p>								

Internal Controls								
<p>Internal controls are systems of policies and procedures that protect the assets of the organization, promote compliance with laws and regulations and achieve effective operations. These systems are not only related to accounting and reporting but also to internal and external communication processes procedures for: handling funds, preparing reports, conducting audits, evaluating staff and programs, maintaining inventory and implementing personnel and conflict of interest policies. (<i>Internal Controls and Financial Accountability for Not-for-Profit Boards</i>, Attorney General Andrew Cuomo, New York.)</p>								
	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?		
Practice/Activity	1	2	3	4	5			
<p>30. <i>The roles and responsibilities of all who are involved in the organization</i> – including the board of directors, officers, employees, volunteers and consultants – are clearly defined in a written format and known by all. (GP)</p>								

<p>31. <i>Fiscal policies are in place:</i> The organization has written fiscal policies and procedures that cover accounting, financial procedures, reporting, investments and conflicts of interest. (GP)</p>											
<p>32. <i>Anti-fraud policies are in place:</i> The board has approved, and the organization follows, a comprehensive internal controls policy that outlines all procedures to (a) prevent misappropriation of resources; (b) prevent material misstatement of financial status; and (c) determine how assets are received, held, monitored and expended. (GP)</p>											
<p>33. <i>Risk management policies are in place:</i> The organization has procedures to safeguard against loss – human, financial and reputational. (GP)</p>											
<p>34. <i>Board is protected:</i> Board indemnification is spelled out in the bylaws or articles of incorporation. (Indemnification does not extend to criminal acts but can protect the board from acts or omissions while serving the organization.) (GP)</p>											
<p>35. <i>The organization has Directors and Officers (D&O) liability insurance:</i> Coverage includes employment practices, because wrongful dismissal is the most common lawsuit against nonprofits. (GP)</p>											
<p>36. <i>The organization has a document retention and periodic destruction policy:</i> There is a written policy that includes guidelines for determining how records will be retained including electronic files and voicemail. If an official investigation is underway or even expected, the organization stops any document purging in order to avoid charges of criminal obstruction. (GP and SO)</p>											

<p>37. <i>Fraud prevention policies and procedures are in place:</i> The board has adopted and widely distributed policies and procedures for each significant area of fraud risk. Trust is not the basis for internal controls. (GP)</p>									
<p>38. <i>Internal problems are addressed and resolved:</i> Internal procedures that spell out how complaints, conflicts or concerns about any aspect of the organization are to be received and investigated are in place. (GP and strongly advised by insurance carriers and defense attorneys)</p>									
<p>39. <i>Other internal controls requirements for our organization's accountability:</i></p>									

Audit and/or Financial Review

The audit provides an independent evaluation of significant financial management areas, In all matters related to the audit, the organization and the audit should be free – in fact and in appearance – from impairments to independence, whether personal, external or organizational.

	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
Practice/Activity	1	2	3	4	5	
<p>40. <i>The annual audit or financial review is completed within three to five months of the end of the organization's fiscal year:</i> According to the Nonprofit Integrity Act, nonprofits with gross revenues over \$2 million, not counting funds for which a governmental entity requires an independent audit, must conduct an independent audit that will be made available to the AG upon request. (GP and NIA.)</p>						

<p>41. <i>Board oversees the audit process:</i> The board or a board-sanctioned audit committee selects, meets with and oversees the auditor and the audit process. (GP and NIA for nonprofits with gross revenues over \$2 million.)</p>									
<p>42. <i>The audit committee is separate from the finance committee and includes at least one member who is financially literate.</i> The Finance Committee is part of the financial management process and, therefore, is not independent. A committee or the full board can act as the audit committee. (GP for all nonprofits. NIA requires separate committees for groups with annual budgets over \$2 million.)</p>									
<p>43. <i>The audit committee is independent and free of conflicts of interest:</i> No compensated members – board or staff – are part of the audit committee. Staff can advise but do not serve on the audit committee. (GP)</p>									
<p>44. <i>Critical accounting policies and practices are disclosed to the audit committee:</i> The committee asks the auditor to make it aware of any concerns or discoveries of fraud or inappropriate behavior. (GP)</p>									
<p>45. <i>The audit committee ensures that the auditor complies with new auditing standards regarding fraud and OMB Circular A-133 changes if the organization has substantial federal funds. (Auditing Standards No. 99 and SAS 99 and OMB Circular A-133)</i></p>									
<p>46. <i>Auditor has nonprofit accounting experience:</i> The independent auditor selected by the board has demonstrated experience in auditing nonprofit organizations, asks tough questions about the organization’s finances and reports his or her findings to the board. (NIA and GP)</p>									

<p>47. <i>Board receives and approves the audit:</i> Board reviews and takes action as needed in response to the audit’s management letter. (GP)</p>								
<p>48. <i>Other audit or review requirements for our organization’s accountability:</i></p>								

<p align="center">Fundraising Management and Donor Relationships In order to receive donations that are deductible from federal income tax, the organization must be organized and operated exclusively for charitable purposes.</p>								
	<p align="center">How do we rate our performance?</p>						<p align="center">Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</p>	
<p align="center">Practice/Activity</p>	<p align="center">1</p>	<p align="center">2</p>	<p align="center">3</p>	<p align="center">4</p>	<p align="center">5</p>			
<p>49. <i>Fundraising is open and transparent:</i> The organization does not engage in deceptive fundraising practices of any kind. Board members engage in prudent judgments in their stewardship responsibilities. (AG and IRS)</p>								
<p>50. <i>Fundraising roles are understood and followed:</i> Board and staff responsibilities are clearly defined and separated, and strategies for generating resources are clearly outlined and followed. (GP)</p>								
<p>51. <i>Donors are informed:</i> They have access to the names of governing board members and to the organization’s financial statements. (GP)</p>								

<p>52. <i>Donations are used for the purpose for which they were solicited:</i> Descriptions of program(s) for which contributions are being solicited are truthful and not misleading. Contributions are used in a manner consistent with the declared purpose for which they were raised. (AG and NIA)</p>							
<p>53. <i>Fundraising costs are accurately reported:</i> The organization honestly and accurately reports fundraising costs, particularly on the Form 990. (IRS)</p>							
<p>54. <i>In accordance with federal and state law, the organization accurately reports to the donor the value and/or deductibility of the contribution:</i> The organization does <i>not</i> state in any printed materials that the donor's gift is tax-deductible when the donor is receiving something of value in exchange for the contributions (called a <i>quid pro quo</i> contribution). The nonprofit <i>does</i> inform the donor in writing of the dollar amount that is a charitable contribution for all <i>quid pro quo</i> gifts valued at more than \$75. (IRS)</p>							

Compensation and Personnel Management

Nonprofit compensation varies widely depending on location, organization type, budget size and number of employees. Nonprofits also must often justify to grantmakers, oversight agencies, individual donors and members that the salaries and benefits they offer are appropriate.

	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
Practice/Activity	1	2	3	4	5	
<p>55. <i>The organization fully complies with all laws regarding employee rights, compensation and benefits:</i> All salaries are reasonable in comparison to similar organizations in the region. (IRS, LL and GP)</p>						

<p>56. <i>Compensation is neither excessively high nor excessively low:</i> Just as staff are not paid excessively high salaries, they are also not paid too little. Both extremes are indicators of poor management practice. (GP)</p>									
<p>57. <i>California labor laws are followed:</i> Laws, particularly those regarding employee exempt status, are followed. The organization complies with internal compensation and benefits plans and with state wage, safety and non-discrimination laws. The organization understands that there are no separate labor laws that apply specifically to nonprofits: Nonprofits are subject to the state's general labor law. (LL and GP)</p>									
<p>58. <i>Current personnel policies are in place:</i> Policies that inform employees about expectations, practices and entitlements with regard to their employment are distributed to each employee. A signed letter stating that he or she has read the policy is in each employee's personnel file. (LL and GP)</p>									
<p>59. <i>Compensation plan approved by the board is in place:</i> The board sets and regularly reviews each component of the nonprofit's compensation plan. The board consistently sets executive compensation and approves any changes, increases or hiring salaries. (IRS Intermediate Sanctions Act. NIA requires boards of organizations with annual budgets over \$2 million to determine compensation for both the top executive and the top finance person.)</p>									

<p>60. <i>Board hires the best executive for the stage of growth the organization is experiencing:</i> The board ensures that the executive has the qualities, skills and expertise the organization needs at each stage of its growth. (GP)</p>								
<p>61. <i>Hiring practices encourage diversity:</i> Both hiring and promotion encourage diversity among the workforce and organizational leadership. (GP)</p>								
<p>62. <i>Employees are not asked to volunteer:</i> Paid employees are not expected or permitted to volunteer their time on behalf of the organization. (LL. It is not uncommon for organizations to be sued by a former employee for pay for time they once volunteered.)</p>								

Summary

Many of the groups that have completed the accountability assessment have found it to be an enlightening experience. They report that building a culture of accountability is a powerful motivational tool for building better day-to-day practice and more reliable and trustworthy systems of governance, management, program delivery and financial controls. As your organization seeks to build a genuine culture of accountability there are some challenges you may need to address:

Written policies are not enough. Some of the compliance requirements and most promising practices described above seem to be achieved with written policies. However, written policies do not automatically result in better practice or improved accountability. Many of the fraudulent corporate and nonprofit practices revealed in the press over the past few years occurred despite the fact that written policies, audits and internal controls were in place. Written policies are useless unless they are coupled with constant follow-through, regular enforcement and scrupulous monitoring and evaluation.

Someone has to be held responsible. When accountability is everyone’s job, it may end up being no one’s job. Some team and group processes, particularly governance, can obscure accountability. Every accountability practice has to be tied to someone’s job. They must be held responsible for its achievement. A genuine culture of accountability encourages responsibility. Unless lines of responsibility are worked out, important accountability practices and behaviors can be lost and/or compromised.

Outside forces can cause harm and can make accountability difficult, but the practice of others cannot be the scapegoat for our accountability failure. There are numerous external systems and practices that work against nonprofit accountability: CPAs that are inexperienced in nonprofit accounting; institutional funders that require different formats, definitions, timelines, terminologies and procedures for financial reporting; government contracts that are paid several months late; and much more. As difficult as these challenges may be, they cannot be used as an excuse for poor accountability. Don't let these factors obscure your commitment to a culture of accountability.

This discussion of accountability is certainly not all inclusive. It is an introduction to and reminder of some of the basic practices, behaviors and principles that can make up a culture of accountability. Establishing a robust commitment to accountability begins with being accountable to ourselves and to building a culture of visibility, transparency and accountability.

If you want to learn more about how to do the practices in the assessment tool, many of California's management support organizations (MSOs) can provide appropriate training and consulting. CAN also provides training, written materials and discussion forums throughout the state and will soon be publishing a series of accountability toolkits that nonprofits can use to further their knowledge and understanding of how to be accountable. You will also find multiple resources that provide information for improving accountability in the appendix section of this paper.