

March 12, 2010

## 2010 Annual Nonprofit Seminar

### Board Governance



Presented by:  
C.E. Crouse, CPA Partner

CAPINCROUSE LLP  
Created Public Accountants

## Agenda

- Raising the bar on expectations for the Board
- The New Form 990 – Governance Issues
- Board Governance
- Best Practices
- Effective Non Profit Boards
- Questions, Comments & Observations

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## Board Governance

### Why have expectations increased?

- The corporate failures of the early 2000's
- The SEC in the public company sector
- The Government – Congress & IRS
- Donors and the public

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## Increasing Public Expectations

### Becerra Says Nonprofits Need More Scrutiny

Rep. Xavier Becerra (D-CA) told a nonprofit audience in Washington June 23 that tax-exempt organizations need to exercise responsible governance or risk losing the tax breaks they currently enjoy.

"We are going to look at everything, and if the charitable world is not prepared to show its best colors, it should not be surprised if there are changes," Becerra said.

Source: *EO Tax Journal*, Paul Streckfus, Editor



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## Increasing Public Expectations

### The 'Grassley 6': Where Are They Now?

By Eric Young Christian Post Reporter March 2009



"My staff and I continue to review the information we've received from the ministries that cooperated, and we continue to weigh our options for the ministries that have not cooperated." **Sen. Chuck Grassley of Iowa** stated Thursday after a long period silence regarding the probe of the Joyce Meyer Ministries, World Healing Center Church, Without Walls International Church, New Birth Missionary Baptist Church/Eddie L. Long Ministries, Kenneth Copeland Ministries, and World Changers Church International - Creffo Dollar Ministries.

<http://www.christianpost.com/article/20090314/the-grassley-6-where-are-they-now/index.html>

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## Increasing Public Expectations

### Sarah Ingram Says the IRS Will Continue Focus on Nonprofit Governance

In her first major presentation since becoming the **Tax Exempt and Government Entities (TE/GE) Commissioner at the IRS**, Sarah Hall Ingram spoke to nonprofit executives this week about the **Service's ongoing interest in the governance practices of tax-exempt organizations.**

Source: *EO Tax Journal*

Date: 06-26-2009



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## Board Governance

### Governance

*The process by which a board fulfills its legal obligation to an organization to oversee its activities and insure that it accomplishes its mission and operates in compliance with applicable laws and regulations.*

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## Form 990 Governance Issues

The new form 990 contains a number of policy and governance related questions. While an organization is not required to have all these policies and best practices in place, a **NO answer to the related question on the form would indicate to the public or rating agencies that a best practice is not being followed and generally requires a narrative explanation.**

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## 990 Governance Questions

The new questions tend to fall into one of three categories:

- **Disclosure and transparency policies:** How will the board insure that there is a free flow of information on sensitive areas and be transparent within the organization and the public with these issues?
- **Personnel and Compensation:** How will the organization demonstrate good stewardship over compensation to the top officer and key employees?
- **Internal Control and Monitoring:** How will the board be sure that good policies and procedures are in place and monitored regularly?

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## 990 Disclosure and Transparency Policies

- Conflict of interest policy (Part VI Q12a-c)
- Whistleblower policy (Part VI Q13)
- Document retention & destruction policy (Part VI Q14)
- Public inspection procedures for Form 990, 990T and 1023 (Part VI Q18)
- Disclosure of governing documents, conflict of interest policy, and financial statements (Part VI Q 19)

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## Personnel and Compensation Policies

- Policy and procedures for approval of pay and compensation for the top official and key employees (Part VI Q 15a&b)
- Payment of housing allowance and other benefits/perks including companion travel, club dues, first class travel, etc. (Schedule J Q 1b)

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## Internal Control and Monitoring

- Review of Form 990 by the board prior to filing (Part VI Q10)
- Gift acceptance policy (Schedule M Q31)
- Policy related to Noncash gift solicitation, processing and sale (Schedule M Q32a-b)

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## Characteristics of a NPO Board - IRS

- Active and engaged
- Knowledgeable & informed
- Independent
- Represent broad public interest
- Experience in appropriate areas

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## Board Profile for Selection of New Directors\*

### Sample Grid:

- A. Expert on the sociology and psychology of primary beneficiaries
- B. Expert in nonprofit law
- C. Former CEO of a similar organization
- D. Expert in major donor fundraising
- E. Expert in public relations and media
- F. Business/professional leader who benefited from the organization
- G. Expert in large nonprofit organization finance, preferably a CPA
- H. Expert in construction and building maintenance issues
- I. Person currently living among primary beneficiaries
- J. Expert in theology (or another relevant, academic discipline)
- K. (Other qualifications as determined by the board)

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## Board Best Practices

- **Board Evaluation**
  - Board of Its Own Structure and Process
  - Board of Its Own Members and Officers
  - Board of Its Chief Executive
    - Hire
    - Supervise
    - Compensate
    - Evaluate

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## Board Best Practices

- **Board Policies and Procedures**
  - Board policy manual
  - Conflicts of interest
  - Whistleblower protection
  - Document and business record retention and destruction
  - Gift acceptance

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## Board Best Practices

- **Board reporting**
  - Operational Reports
  - Dashboards – your own organization
  - Benchmarks – other similar organizations
- **Board Monitoring**
  - COSO – internal controls and financial reporting

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## Effective Non Profit Boards

“It’s not rules, regulations, or structure that make great boards great; it’s the way people work together.”

“We will be fighting the wrong war if we simply tighten the procedural rules and improve the structure of the boards and ignore their more pressing need – to become strong, highly functioning groups whose members trust and challenge one another and engage with senior management on critical issues facing the organization.”

Source: *What Makes Great Boards Great*  
by Jeffrey Sonnenfeld

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## Effective Non Profit Boards

### ➤ A Look at Conventional Wisdom

- Board size and committee structure
- Members with experience and competence in wide range of areas
- Members who are committed to the organization and support it with their resources
- Members who prepare for meetings, attend regularly, and are independent from management

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## Effective Non Profit Boards

- Do these things produce great boards and great governance?
- What distinguishes exemplary boards is that they are robust, effective social systems.

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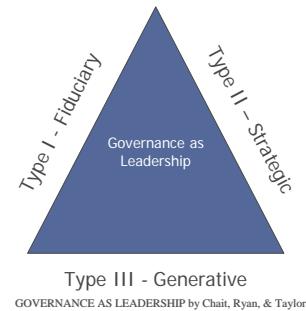
## Effective Non Profit Boards

- The Importance of the Human Element
  - Create a climate (or continuous cycle) of Respect, Trust, and Candor
  - Develop a culture of Open and Focused Dissent
  - Develop a culture of Accountability
  - Evaluate the Board's Performance

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## The Board of 2010



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## Effective Non Profit Boards

### Three modes of governance

- Type I – Fiduciary
  - The basic work of the board includes:
    - Financial discipline,
    - Informed oversight and monitoring,
    - Mission fidelity and practice alignment,
    - Promoting the organization's interests and insuring its integrity
    - Selection and evaluation of the President

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## Effective Non Profit Boards

- Type II – Strategic
  - The Board works in a process with the CEO to do strategic thinking and identify strategic directions.
  - The President and staff take these directions, make strategic plans aligned with those directions, and implement them in a way that accomplishes the mission in a relevant manner.
  - The Board monitors the implementation and results of the strategic plans.

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## Effective Non Profit Boards

- Type III – Generative
  - Grappling with emerging major issues so the board and the organization can understand them and make appropriate decisions. This is usually something they do together. This is not a planning activity.
  - Grappling – open, in-depth, collaborative discussions on major issues, crises, or external policies or events that threaten the health of the organization and its ability to fulfill its mission within its values.

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## Effective Non Profit Boards

How do you achieve Governance as Leadership?

- Remember the human element
  - Climate of Respect, Trust and Candor
  - Culture of open dissent
- Recognize the different activities that belong in each model and begin to practice all three
  - Fiduciary
  - Strategic
  - Generative

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## Effective Non Profit Boards

- Emerging realities for Nonprofits
  - Demand for impact by donors and foundations
  - Demand for accountability by oversight bodies
  - Impact of new standards on nonprofits

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## Effective Non Profit Boards

Questions

Comments

Observations

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