NEW MEXICO NONPROFIT PRINCIPLES & PRACTICES

GUIDE CENTER FOR NONPROFIT EXCELLENCE

FIRST EDITION | 2018

Dear New Mexico nonprofit employees, board members, volunteers and community,

This first edition of the *New Mexico Nonprofit Principles & Practices Guide* and the *Companion Workbook to the New Mexico Nonprofit Principles & Practices Guide* were developed over the course of two years by the Center for Nonprofit Excellence (CNPE) team at the United Way of Central New Mexico with invaluable support from our Advisory Committee, other states around the country, our designers and translator. The combined experience and breadth of expertise is what we knew would make our state's *Guide* great.

The team at CNPE deserves special praise for this body of work as countless hours were poured into ensuring that every single detail was just right. It is with deep gratitude for everyone's time, talent, patience and enthusiasm that I welcome you to these pages. A labor of love for New Mexico and the nonprofit sector, the *New Mexico Nonprofit Principles & Practices Guide* and the *Companion Workbook to the New Mexico Nonprofit Principles & Practices Guide* were developed just for you.

As you read through, you will find yourself wondering if your organization has the capacity to embody each guiding principle and implement every practice. You are only expected to work with this material at a pace that is appropriate for you and your organization. Further, you may determine that some pieces do not apply, while others will become crystal clear priorities. Understanding where you stand right now, then where you want to go and what you need to get there will only help your organization flourish.
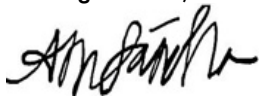
At CNPE, we believe that healthy nonprofits lead to healthier communities; volunteer expertise can be harnessed to improve nonprofits; strong leadership at all levels is critical to a strong nonprofit sector; and strategic collaborations help nonprofits achieve more, and better serve their clients.

New Mexico is undeniably a rare and special place. People from all over are drawn here and so many more have been here for generations. We all choose to be here in New Mexico because of that certain something that is difficult to put a finger on. The Land of Enchantment. The Land of Mañana. Maybe we call it the land of tomorrow because we are enchanted by so much natural beauty that we need just a little more time.

It is my belief that the *New Mexico Nonprofit Principles & Practices Guide* and the *Companion Workbook to the New Mexico Nonprofit Principles & Practices Guide* will help you achieve your nonprofit mission more effectively and efficiently which will make New Mexico an even better place for us all to live.

Thank you for all that you do for our community.

With gratitude,

Annie Sánchez
Director, Center for Nonprofit Excellence
United Way of Central New Mexico

THANK YOU TO OUR GENEROUS SUPPORTERS

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The legal requirements included in this *Guide* are specifically intended for 501(c)(3) charitable nonprofit organizations. Depending upon the activities of a 501(c)(3) charitable nonprofit organization, laws other than nonprofit corporation, tax and charitable solicitations laws may apply. While practices for other types of nonprofit organizations are not included, this *Guide* can be used as a tool for those organizations to strengthen operations and governance.

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HOW TO USE THE
NEW MEXICO NONPROFIT PRINCIPLES & PRACTICES GUIDE

The *New Mexico Nonprofit Principles & Practices Guide* is a tool to help nonprofits understand the foundation of a healthy and sustainable nonprofit in New Mexico so they can achieve their mission.

The *Guide* has two intended purposes:

- To provide New Mexico nonprofit organizations with shared guidelines and actionable methods to support improved operations and governance.
- To enhance the effectiveness and quality of the New Mexico nonprofit sector.

Definitions to Dominant, Recurring Terms

The glossary has a complete list of definitions of terms found within this *Guide*.

- **Guiding Principle:** A broad statement that defines a suggested ethical or managerial direction for a nonprofit organization.

- **Legally Required Practice:** Law requires that a method be implemented to achieve the principle.

- **Must (Related to Legally Required Practices):** Law under the federal and/or New Mexico government requires implementation by 501(c)(3) charitable nonprofit organizations.

- **Nonprofit, Organization and Charitable Organization:** These terms are used interchangeably and refer to entities granted exemption from federal income tax by the Internal Revenue Service, described in Section 501(c)(3) of the Internal Revenue Code of 1986; or identifies itself to the public as having a "charitable purpose".

- **Recommended Standard Practice:** A suggested method to achieve the principle.

- **Should (Related to Recommended Standard Practices):** No law requires implementation, but there is a common understanding that the practice is implemented if an organization has the capacity to do so.

Support

The Center for Nonprofit Excellence has resources available in person and online to help nonprofits implement the practices in the *New Mexico Nonprofit Principles & Practices Guide* including:

- *Companion Workbook to the New Mexico Nonprofit Principles & Practices Guide*

- Capacity Building Training

- Technical Assistance

- Knowledge-Building Resources

- Consultant Referrals

Given the rich diversity of organizations that make up the New Mexico nonprofit sector, the *New Mexico Nonprofit Principles & Practices Guide* will resonate with people differently. It serves as a baseline for Boards of Directors and staffs to determine which practices they will adopt in order to propel their organization forward.

Visit our website:
www.CenterforNonprofitExcellence.org

NAVIGATING
THE GUIDE
Steps to working with the *New Mexico Nonprofit Principles & Practices Guide*

STEP 1
Understand the Guide

Start by familiarizing yourself with the twelve sections within the *Guide*. Each section has a guiding principle, legally required practices, recommended standard practices and resources.

STEP 2
Use the Companion Workbook to Assess and Determine Priorities

The *Companion Workbook* was developed to complement the *Guide* and support people as they work through it.

Specifically, it was designed to help you think through where your organization stands, what the priorities are, who is responsible for what and deadlines.

It is recommended that the Board and management work through the *Companion Workbook*, whether these groups work together or separately is up to each organization. However, it is recommended that they work together in some capacity. It is also recommended that front line staff be involved at some level.

STEP 3
Implement

This is where the magic happens. You may find some practices are easy to implement while others take time. Working toward a stronger, healthier and more sustainable nonprofit is an ongoing process for which you set the pace.

As practices are implemented, you may find annual or biannual reviews of the *Guide* become easier each time around. The *Guide* and *Companion Workbook* are great tools for onboarding new Board members and staff in leadership positions, and may be beneficial for other staff based on their responsibilities.

STEP 4
Build Capacity

The Center for Nonprofit Excellence is here to support you. You can find resources and services tailored specifically to the *Guide* on our website, including training and a curated library of knowledge-building resources.

When you are unsure about where to find something or simply have questions, our technical assistance service is here for you. When it makes the most sense to work with a content expert or service provider, contact us for referrals.

GLOSSARY

Accountability: An organization's ability to answer questions regarding appropriate expenditure of funds and/or outcomes that demonstrate progress toward its mission.

Advocacy: Any action that speaks in favor of, argues for, recommends, supports, defends or pleads on behalf of others or a cause. Includes public education, regulatory work, litigation, work before administrative bodies, lobbying, and voter registration or education.

Asset: Property owned by an organization, regarded as having value and available to meet debts, commitments, or legacies.

Board of Directors: Governing body of a nonprofit organization.

Budget: An estimate of revenue and expenses for a set period of time.

Capacity: An organization's capability to achieve its stated mission.

Capital Leases: Contract entitling a renter to a temporary use of an asset, and such a lease has economic characteristics of asset ownership for accounting purposes.

Charitable Organization: Refers to entities granted exemption from federal income tax by the Internal Revenue Service, described in Section 501(c)(3) of the Internal Revenue Code of 1986; or identify to the public as having a "charitable purpose".

Charitable Purpose: A benevolent, social welfare, scientific, educational, environmental, philanthropic, humane, patriotic, public health, civic or other charitable objective or an activity conducted in support of or in the name of law enforcement officers, firefighters or other persons who protect public safety.

Civic Engagement: Organizing the community around an issue, registering voters, or meeting with government officials to share information about an organization's work.

Conflict of Interest: Any situation in which an individual or corporation (either private or governmental) is in a position to exploit a professional or official capacity in some way for their personal or corporate benefit.

Conflict of Interest Policy: An organizational policy that (a) requires those with a conflict (or who think they may have a conflict) to disclose the conflict/potential conflict, and (b) prohibits interested Board members from voting on any matter in which there is a conflict.

Constituent: People with a stake in the success of the organization and may include members, neighbors, clients, stakeholders, volunteers and contributors.

Disqualified Person: Any person who was in a position to exercise substantial influence over the affairs of the applicable tax-exempt organization at any time during the period under review or in question.

Diversity: The ways in which people differ, including the characteristics that make one individual or group different from another.

Donor: A person who donates funding or in-kind goods to a nonprofit.

Employee: A person employed for wages or salary.

Equity: Being fair and impartial with regard to access, advancement and opportunity while simultaneously eliminating barriers that may prevent full inclusion.

Evaluation: A structured process of assessing the success of a project in meeting its goals and reflecting on the lessons learned.

Excess Benefit Transaction: A transaction in which an economic benefit is provided by an organization directly or indirectly to or for the use of a disqualified person, and the value of the economic benefit exceeds the value of consideration (including performance of services).

Expenditure (in relation to lobbying): The expenses, including staff salaries and benefits; costs of communications (e.g. printing and postage); a portion of overhead expenses attributable to lobbying; and grants, payments, or reimbursements made to others for lobbying.

Expense: The cost required for something; the money spent on something.

Fiscal Sponsorship: A legal arrangement between a 501(c)(3) tax-exempt, charitable organization and a social impact project or initiative where the 501(c)(3) provides fiduciary oversight, financial management, back office support or other administrative services to the project or initiative.

Guiding Principle: A broad statement that defines a suggested ethical or managerial direction for a nonprofit organization.

Inclusion: The act of creating an environment wherein any individual is able to fully participate.

Income: Money received, especially on a regular basis, for work or through investments.

In-Kind Contribution: Contributions of goods or services, not monetary gifts or grants.

Information Technology: The technology involving the development, maintenance, and use of computer systems, software, and networks for the processing and distribution of data.

Internal Control: A process for assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting, and compliance with laws, regulations, and policies.

Legally Required Practice: Law requires that a method be implemented to achieve the principle.

Lobbying (Direct): Communication with a legislator to express a view about specific legislation.

Lobbying (Grassroots): Communication with the general public that reflects a view on specific legislation and includes a call to action.

Lobbying (NM law): An attempt to influence specific legislation by communicating views to legislators or asking people to contact their legislators.

Lobbyist: An individual who is compensated for the specific purpose of lobbying; is designated by an interest group or organization to represent it on a substantial or regular basis for the purpose of lobbying; or through employment is engaged in lobbying on a substantial or regular basis.

Must (Related to Legally Required Practices): Law under the federal and/or New Mexico government requires implementation by 501(c)(3) charitable nonprofit organizations.

Nonpartisan: Not biased or partisan, especially toward any particular political group.

Nonprofit Organization: Refers to entities granted exemption from federal income tax by the Internal Revenue Service, described in Section 501(c)(3) of the Internal Revenue Code of 1986; or identify to the public as having a "charitable purpose".

Orientation: The process of giving people training and information about a new job, situation, etc.

Outcomes: An evaluation term used to describe the level of performance or achievement related to an organization's programs or services. These measures address the value or impact of organizational activities.

Outputs: An evaluation term used to describe what is created at the end of a process (e.g., number of clients served, programs delivered).

Performance Indicators: A measurable value that demonstrates how effectively a nonprofit is achieving key objectives.

Political Contribution: A gift, subscription, loan, advance or deposit of any money or other item of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of influencing a primary, general or statewide election, including constitutional or other questions submitted by voters, or for the purpose of paying a debt incurred in any such election.

Private Inurement: When a nonprofit's money or assets are devoted to private uses by insiders instead of the charitable purposes they were intended for.

Professional Fundraiser: An individual who (a) provides fundraising services or employs or directs others to provide fundraising services on behalf of a nonprofit and (b) has custody or control of the contributions. *For example, a professional fundraiser is contracted to solicit and receive donations in the name of the nonprofit and takes a percentage of fees out of the contributions before distributing to the nonprofit. This role is not to be confused with a contracted grant writer or fundraiser who solicit contributions that are sent directly to the nonprofit.*

Public Policy: Government policies, laws and regulations concerning a given topic that impact communities.

Qualitative Data: A categorical measurement expressed not in terms of numbers, but rather by means of a natural language description. In statistics, it is often used interchangeably with "categorical" data.

Quantitative Data: Information about quantities; that is, information that can be measured and written down with numbers.

Quid Pro Quo: Something given or received in exchange for something else.

Recommended Standard Practice: A suggested method to achieve the principle.

Restricted Funding: Monies that have been provided or earmarked by the donor, funder, foundation or government agency for a specific area of work, project, program, or otherwise.

Risk Management: The forecasting and evaluation of risks coupled with identifying procedures to avoid or minimize their impact.

Self-Identification: The attribution of certain characteristics or qualities to oneself.

Should (Related to Recommended Standard Practices): No law requires implementation, but there is a common understanding that the practice is implemented if an organization has the capacity to do so.

Single Audit: A rigorous, organization-wide audit or examination of an entity that expends $750,000 or more of Federal assistance (commonly known as Federal funds, Federal grants, or Federal awards) received for its operations.

Social Media: Websites and applications that enable users to create and share content or to participate in social networking.

Social Media Policy: An organizational code of conduct that provides guidelines for employees who post content on the internet either as part of their job or as a private person.

Stakeholder: A person, group, or organization that has interest or concern in an organization.

Strategic Plan: Identified strategies that support a nonprofit in achieving its mission. Many nonprofits start the strategic plan process by identifying the nonprofit's Strengths, Weaknesses, Opportunities, and Threats, in what is commonly called a "SWOT" analysis.

Succession Planning: A process for identifying and developing internal people with the potential to fill key business leadership positions in the company. Succession planning increases the availability of experienced and capable employees who are prepared to assume these roles as they become available.

Theory of Change: A specific type of methodology for planning, participation, and evaluation that is used to promote social change. Theory of Change defines long-term goals and then maps backward to identify necessary preconditions.

Volunteer: A person who freely offers to undertake a task.

Unrestricted Funding: Monies that have not been provided or earmarked by the donor, funder, foundation or government agency for a specific area of work, project, program, or otherwise.

Whistleblower Policy: An organizational policy that encourages a worker to report suspected wrongdoing at work.

WHAT TO CONSIDER
BEFORE STARTING A NONPROFIT

There is no question that nonprofits enrich our communities. Every day, individuals like you are inspired to start new nonprofits because they are moved by a need in their community and want to address it. We applaud the commitment to helping others.

However, starting and sustaining a nonprofit are not easy tasks. As you will learn in this *New Mexico Nonprofit Principles & Practices Guide,* operating a healthy and sustainable nonprofit involves a lot of energy, time, money and people power.

Driven by a cause or an idea, you want to get out there and "do the work." Though, when it comes down to it, the "idea person" may not be the person doing the work because their time is taken up with other responsibilities.

Before making a decision to start a nonprofit, you should be able to answer the following questions.

QUESTIONS TO ASK YOURSELF

- **Is there a demonstrated need in the community for a new nonprofit with the mission I envision?**

  Doing research before starting a nonprofit is your first step. You need to define and quantify the problem that your nonprofit would address in the community. Just as you would do if you were starting a small business, you need to define the "demand" and "market" for the services your nonprofit would provide.

  There is intense competition for grant funding and individual donor dollars. In order to attract funding, you need to demonstrate that there is sufficient need for your organization's services and that your organization is equipped to address the need. You may need to pause and conduct research to demonstrate the need for the new organization.

- **Is somebody already doing what I want to do or something similar?**

  You need to research and learn about other programs, people and organizations out there. The New Mexico Nonprofit Directory[1] is a free, online directory of nonprofits operating in our state. Other resources include your local community foundation, United Way, Chamber of Commerce and local government agencies - contact them to find out if your proposed organization will address a significant need and if they are aware of other organizations already doing work to address the need. If there is an existing organization, connect with them!

  Rather than starting a new nonprofit, it may be more efficient to collaborate with an existing organization because they already have an infrastructure in place. You could also work with them as a volunteer or Board member.

  Something else to consider is enlisting the assistance of a fiscal sponsor[2]. Often, a fiscal sponsor can serve as an incubator for the program allowing it to (1) be piloted, evaluated and improved and (2) secure funding prior to becoming an independent nonprofit.

- **Do I want to be in charge of/maintain control of the work?**

  Nonprofit organizations are public entities, they are not controlled by any one individual.

  Starting a nonprofit requires having an independent Board of Directors that oversees, guides and directs the organization. The Executive Director answers to the entire Board.

- **How will I finance the organization during start up and in the future?**

  To be successful, nonprofits need more than just people who are passionate about the programs. They need an infrastructure strong enough to support those programs over time.

  You need to invest quality time up front to develop a detailed business plan[3]. A solid plan will provide the structured discipline to think through the critically important operational issues. Once the business plan exists, excerpts can be pulled from it to insert into the IRS Form 1023 application for tax-exempt status and in fundraising efforts.

  Along with the fixed costs associated with necessary paperwork filing, there will be other costs to get your nonprofit off the ground. Do you know what the infrastructure costs will be for your nonprofit to deliver services? Will you need office space? What supplies will be necessary? In some cases, special licenses, permits, or certifications will be necessary to provide certain services, such as child care or health care.

- **Where will I get the initial start-up funding and the operational funding to continue?**

  Given the competition for limited human and financial resources (Board members are not always easy to find and dollars are increasingly scarce), make sure you have (1) a realistic picture of what it will cost in time and dollars to create a nonprofit, and (2) how you will manage the day-to-day activities and continue to attract revenue into the future. Financial sustainability[4] may be the most difficult challenge a nonprofit will face.

- **How will my nonprofit demonstrate impact?**

  In order to be sustainable, you will need to demonstrate to funders that your organization is making an impact and is worth continuing to invest in.

  You will need a plan for how you are going to measure impact. You should have these measurement systems in place from the beginning, otherwise it will only become more challenging to determine how to demonstrate the impact your organization is having.

- **Am I sure that this is the right solution for my community?**

  Once you incorporate with the New Mexico Office of the Secretary of State and secure tax-exempt status from the Internal Revenue Service, the heavy-lifting begins.

  You will need to recruit and orient a great Board of Directors that shares your vision. You will need to hire and manage talented staff, find and equip an office, set up financial structures, etc. You will also need to register with the New Mexico Office of the Attorney General once the organization exists and before you can fundraise. You will need to secure any required licenses or permits, make withholding tax deposits, and much more. You will need to have an ethics and accountability program in place, including policies regarding conflicts of interests, compensation, travel, whistleblower protection, etc.

  If you learned through your research that other nonprofits are already working on the issue that you want to address, rather than starting another organization and creating even more competition for limited funding, you may want to find a way to work with that existing organization. You can donate to the organization, volunteer or join their Board of Directors, join their staff and work with them to establish a new or expanded program to reach the people you are hoping to serve, or investigate the possibility of that organization serving as your fiscal sponsor.

HOW TO
OPEN & CLOSE A NONPROFIT IN NEW MEXICO

After you have considered the questions above and determined that starting a new nonprofit is what you are going to do, please review the steps to forming a nonprofit below. Following this section, you will find the steps to closing a nonprofit.

The Center for Nonprofit Excellence does not provide assistance with starting nonprofits. Instead, we have developed this resource and curated many on our website to help you understand what is needed to start and sustain a healthy nonprofit in New Mexico.

We encourage you to consult with experts (an attorney, accountant and/or someone very familiar with tax-exempt law and how charitable organizations operate in New Mexico) to ensure that the new nonprofit you form complies with all local, state and federal laws.

STEPS TO FORMING A NONPROFIT

1. **Give your nonprofit a name**

   Your nonprofit organization's legal name cannot conflict with other registered organizations in New Mexico[5].

2. **Recruit an incorporator and the Board of Directors**

   The incorporator will sign the Articles of Incorporation. There needs to be at least one person with this responsibility. The Board of Directors must have at least three people.

3. **Appoint a registered agent**

   The registered agent is responsible for receiving legal notices for the nonprofit and must be located in New Mexico and have an office that is open during normal business hours.

4. **File Articles of Incorporation with the New Mexico Secretary of State**[6]

   Do not file the Articles of Incorporation until you have read the instructions to IRS Form 1023. The New Mexico Office of the Secretary of State provides a form for the Articles of Incorporation or you may file your own Articles of Incorporation. You want to be sure that they meet the requirements under Section 53-8-31 NMSA 1978[7]. The fee to file Nonprofit Articles of Incorporation is $25.

5. **File the Initial Corporate Report with the New Mexico Office of the Secretary of State within 30 days of the date on the certificate of incorporation**

   The Initial Corporate Report contains address information for the corporation, a statement of the character of affairs of the corporation and a listing of all officers and directors of the corporation. The fee to file an Initial Corporate Report is $10.

   An Annual Corporate Report is due to the Secretary of State on the fifteenth day of the fifth month following the corporation's fiscal year end date. The fee to file an Annual Corporate Report is $10.

6. **Obtain an Employer Identification Number from the Internal Revenue Service**[8,9]

7. Draft Bylaws and a Conflict of Interest Policy

In accordance with Section 53-8-12 NMSA 1978[10], bylaws of a corporation shall be adopted by its Board of Directors. They may contain any provisions for the regulation and management of the affairs of a corporation and must be signed by two authorized officers of the corporation, must be maintained at the corporation's principal office in New Mexico, and are subject to inspection and copying by the public.

8. Conduct the first organizational meeting of the Board of Directors

This meeting is where you will approve bylaws, adopt the conflict of interest policy, elect officers, and identify a financial institution to handle the organization's funds.

9. Register to fundraise with the New Mexico Office of the Attorney General[11]

To determine if your organization is exempt from registration, contact the New Mexico Office of the Attorney General[12].

10. Obtain a New Mexico State Tax Identification Number with the New Mexico Taxation and Revenue Department[13]

Anyone who does business in New Mexico must register with the Taxation and Revenue Department though they may make exceptions for businesses that are exempt from gross receipts, withholding or compensating tax by state law.

11. Apply for 501(c)(3) with the Internal Revenue Service

If your organization meets the eligibility requirements[14], you may file IRS Form 1023-EZ[15].

12. Determine if you need to apply for Nontaxable Transaction Certificates with the New Mexico Taxation and Revenue Department[16]

Additionally, nonprofits that conduct charitable gaming (bingo, raffles, etc.) must understand the minimum internal control standards[17, 18].

13. If necessary, obtain state and/or local business licenses and permits

14. If the nonprofit will have employees, register with the New Mexico Department of Workforce Solutions and the New Mexico Workers Compensation Administration[19]

STEPS TO CLOSING A NONPROFIT

1. **Hold a full Board of Directors meeting to vote on dissolution of the Corporation per the organization's Articles of Incorporation and Bylaws**
The Dissolution section of the Articles of Incorporation should be read into the minutes and included as an attachment. A Resolution of Intent to Dissolve should be approved and signed by all Board members.

   - The State of New Mexico Articles of Dissolution should be approved and signed.

   - The financials, showing either a zero asset balance or the balance that is reflected in the plan for distribution of assets, should be approved.

   - A plan for distribution of all assets must be in place.

2. **Apply for Tax Clearance for Dissolution from the New Mexico Office of the Secretary of State**[20]

3. **Upon receipt of Tax Clearance, file the Articles of Dissolution with the New Mexico Office of the Secretary of State with the received Tax Clearance**[21]

4. **Submit the Business Tax Registration Update to the New Mexico Taxation and Revenue Department and indicate closed vs. active**[22]

5. **File the final state tax return with the New Mexico Taxation and Revenue Department and include the Certificate of No Tax Due received from the New Mexico Office of the Secretary of State**

6. **File a copy of the dissolution packet with the New Mexico Office of the Attorney General**
The packet should include a copy of final financial reports reflecting distribution of assets and a zero balance. *It is important that assets do not go to private inurement.* If your organization is registered with other state Attorneys General, you must send the information to their offices as well.

7. **File final IRS Form 990 - include a schedule N**
Include two copies of the documentation sent to the New Mexico Office of the Secretary of State; must be filed within 4 months and 15 days of organization's termination.

OPENING & CLOSING NONPROFIT RESOURCES

1 New Mexico Nonprofit Directory, Center for Nonprofit Excellence at the United Way of Central New Mexico:
www.NMNonprofits.org

2 "Fiscal Sponsorship for Nonprofits," National Council of Nonprofits:
www.councilofnonprofits.org/tools-resources/fiscal-sponsorship-nonprofits

3 "Business Planning for Nonprofits," National Council of Nonprofits:
www.councilofnonprofits.org/tools-resources/business-planning-nonprofits

4 "Nonprofit Sustainability," National Council of Nonprofits:
www.councilofnonprofits.org/tools-resources/nonprofit-sustainability

5 Business Search, Corporations and Business Services of the New Mexico Office of the Secretary of State:
portal.sos.state.nm.us/BFS/online/CorporationBusinessSearch

6 Domestic New Mexico for Nonprofit Corporation, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/Business_Services/Domestic_NM_for_Non_profit_Corp.aspx

7 Nonprofit Corporations, Article 8 Section 53-8-31, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/uploads/files/Corporations/ch53Art8.pdf

8 "Employer Identification Number – Understanding Your EIN," Internal Revenue Service:
www.irs.gov/pub/irs-pdf/p1635.pdf

9 Form SS-4, Internal Revenue Service:
www.irs.gov/pub/irs-pdf/fss4.pdf

10 Nonprofit Corporations, Article 8 Section 53-8-12, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/uploads/files/Corporations/ch53Art8.pdf

11 Charitable Solicitations Act, New Mexico Office of the Attorney General:
www.nmag.gov/charitable-solicitations-act.aspx

12 Charity Registration Frequently Asked Questions," New Mexico Office of the Attorney General:
https://www.nmag.gov/charity-registration-faq.aspx

13 Register Your Business, New Mexico Taxation and Revenue Department:
www.tax.newmexico.gov/Businesses/register-your-business.aspx

14 "Instructions for Form 1023-EZ, Eligibility Worksheet," pages 11-18, Internal Revenue Service:
www.irs.gov/pub/irs-pdf/i1023ez.pdf

15 Form 1023-EZ, Internal Revenue Service:
www.irs.gov/uac/about-form-1023ez

16 Non-Taxable Transaction Certificates (NTTC), New Mexico Taxation and Revenue Department:
www.tax.newmexico.gov/Businesses/non-taxable-transaction-certificates.aspx

17 "Minimum Internal Control Standards (MICS) for Nonprofit Gaming Operations," New Mexico Gaming Control Board:
www.nmgcb.org/uploads/FileLinks/609df44dc05e48b68baba1d5319109df/NP_MICS___adopted_2_12_2014.pdf

18 "A Guide to Gambling/Gaming Activities in New Mexico (formerly "A Guide to Conducting Fundraising Activities in New Mexico),"
New Mexico Gaming Control Board:
www.nmgcb.org/gambling-review.aspx

19 Business Checklist, New Mexico Department of Workforce Solutions:
https://www.dws.state.nm.us/Business/Business-Information/Starting-a-New-Business

OPENING & CLOSING NONPROFIT RESOURCES

20 Common Forms, Application for Tax Clearance, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/Business_Services/COMMON_FORMS.aspx

21 Nonprofit Corporation, Articles of Dissolution, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/uploads/Files/Corporations/dnpdv.pdf

22 Closing Your Corporation, New Mexico Department of Taxation and Revenue:
www.tax.newmexico.gov/Businesses/register-close-your-corporation.aspx

ADVOCACY

White Sands National Monument

Guiding Principle

Nonprofits are uniquely positioned to amplify the voice of their community, issue areas and the sector as a whole.

Nonprofits that engage in lobbying, public policy and civic engagement serve as important conduits between policymakers and their constituents. Advocacy is a critical and fully legal means for organizations to accomplish their missions, as it contributes to well-informed public policies and effective implementation.

If nonprofit leadership determines that engaging in advocacy is in alignment with their mission and makes sense for their organization, it is important to understand what it is.

Advocacy broadly defined is the active support of an idea or a cause and, while definitions vary, can include the following activities:

- **Civic Engagement:** Organizing the community around an issue, registering voters or meeting with government officials to share information about an organization's work.

- **Direct Lobbying:** Communication with a legislator to express a view about specific legislation.

- **Grassroots Lobbying:** Communication with the public to express a view about specific legislation with a call to action, such as urging the public to contact their legislators.

> In order for an action to be considered direct or grassroots lobbying, each underlined element must be at play. It is not lobbying if one or more element is missing.

- **Not Lobbying:** Nonpartisan analysis, study or research that presents all sides of an issue; responses to written requests for assistance from committees or other legislative bodies; challenges to or support for legislative proposals that would change the organization's rights or right to exist; examinations and discussions of broad social, economic and similar problems.

This *Guide* has been written for 501(c)(3) charitable organizations. It is important to know that 501(c)(4), 501(c)(5) and 501(c)(6) organizations can do a considerable amount more lobbying.

Legally Required Practices

Political Campaigns[1]

- Nonprofits must not make contributions to political campaigns.

Lobbying

- Nonprofits that lobby are subject to lobbying limits, measured by the Substantial Part Test or the 501(h) Expenditure Test[2].

- Nonprofits that lobby in New Mexico must comply with the New Mexico Lobbyist Regulation Act.

- Nonprofits must be aware of funding source limitations when they engage in lobbying. *For example, nonprofits that receive federal funding are not allowed to use federal funds for lobbying.*

501(h) Election[3]

- Nonprofits that do not make the 501(h) election are allowed to lobby but must ensure lobbying could not be considered a "substantial part" of the organizational activities; otherwise tax-exempt status may be jeopardized.

  o The IRS considers a variety of factors, including time devoted by both compensated and volunteer workers and expenditures devoted by the organization to the activity, when determining if the lobbying activity is substantial.

- Nonprofits that elect to use the IRS 501(h) Expenditure Test must file IRS Form 5768[4]. It can be submitted any time during the tax year for which it is to be effective and is valid until it is revoked.

  o The 501(h) election provides more generous lobbying limits and clearer definitions of lobbying than the Substantial Part Test. It defines a clear dollar amount that the electing public charity may spend on lobbying, and lobbying limits vary depending on the size of the organization's annual expenditures.

    > Nonprofits with expenditures of $500,000 or less per year can spend as much as 20% of their budget on lobbying.

- Nonprofits that make the 501(h) election can engage in activities that would otherwise be considered "influencing legislation."

- Nonprofits that make the 501(h) election can respond to written requests from government bodies, officials or committees to provide technical assistance or advice where this would otherwise be considered "influencing legislation."

- Nonprofits that make the 501(h) election can engage in "self-defense" communications with elected officials or their staff on possible decisions that might affect the existence, powers and duties or tax-exempt status or deductibility of contributions to the organization.

- Nonprofits that make the 501(h) election can communicate with a government official or employee but not for the purpose of influencing legislation.

- Nonprofits that make the 501(h) election can make available results of nonpartisan analysis, study or research.

- Nonprofits that make the 501(h) election can communicate with bona fide members (e.g., constituents, Board of Directors, volunteers) regarding legislation or proposed legislation of direct interest to the organization and such members (other than communications that directly encourage members to engage in direct lobbying).

Compliance, Filing and Reporting[5]

- Anyone who qualifies as a lobbyist pursuant to the New Mexico Lobbyist Regulation Act[6] must register annually and disclose lobbying activities by filing three times a year with the New Mexico Office of the Secretary of State or during the New Mexico Legislative Session within 48 hours.

- Nonprofits that elect to use the IRS 501(h) Expenditure Test must file IRS Form 5768 any time during the tax year for which it is to be effective.

- Nonprofits that lobby or have made the 501(h) election must file IRS Form 990, Schedule C, annually.

- Nonprofits that want to revoke their 501(h) election must file IRS Form 5768 during the tax year the revocation is to be effective; it will remain in effect until a new election is made.

Recommended Standard Practices

Political Campaigns

- Nonprofits should maintain nonpartisanship and refrain from making public statements in support of or opposition to any candidate running for political office.

Lobbying

- Nonprofit advocates should distinguish between their personal positions or endorsements and the nonpartisan stance of their organization.

- Nonprofits should consider the benefits of the 501(h) election.

Public Policy

- Nonprofits should develop a clearly defined, written policy clarifying the scope of their advocacy work, including the time and resources they will dedicate to these activities.

- Nonprofits should maintain a sound understanding of current public policy related to their mission, clients, community and the nonprofit sector as a whole.

- Nonprofits should consider taking organizational positions on policy issues that are important to their mission and affect the services they provide to the community.

- Nonprofits should build relationships with legislators and their staff and share information about organizational activities that may be impacted by public policies.

- Nonprofits should make nonpartisan policy analyses available that have independent and objective perspectives on issue areas.

- Nonprofits should consider forming strategic partnerships with other organizations around relevant policy issues.

- Nonprofits should educate constituents (Board of Directors, employees, volunteers, donors, and community members) on how public policy impacts the community and encourage their participation in the organization's advocacy activities.

- Nonprofits should provide training to those participating in advocacy on behalf of the organization.

Civic Engagement

- Nonprofits should consider promoting awareness of elections and issues, including sponsoring nonpartisan candidate forums and legislative score cards.

- Nonprofits should encourage and facilitate voter registration and voting in federal, state, county and city elections, but should refrain from demonstrating a bias in support of or opposition to any candidate running for public office.

ADVOCACY RESOURCES

1 "The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations," Internal Revenue Service:
   www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501-c-3-tax-exempt-organizations

2 "Measuring Lobbying Activity: Expenditure Test," Internal Revenue Service:
   www.irs.gov/charities-non-profits/measuring-lobbying-activity-expenditure-test

3 "What is Lobbying Under the 501(h) Election?," Bolder Advocacy at the Alliance for Justice:
   www.bolderadvocacy.org/wp-content/uploads /2012/05/What_is_lobbying.pdf

4 Form 5768, Internal Revenue Service:
   www.irs.gov/pub/irs-pdf/f5768.pdf

5 "Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations), Internal Revenue Service:
   www.irs.gov/pub/irs-pdf/p4221nc.pdf

6 Lobbyist Regulation Act, NMSA 2-11-1 through 2-11-9; "New Mexico Lobbyist Regulation Act Reporting Guidelines,"
   New Mexico Office of the Secretary of State:
   http://www.sos.state.nm.us/uploads/files/Lobbyist%20Guide%202017-2018%20final%20122017.pdf

ADDITIONAL ADVOCACY RESOURCES
www.centerfornonprofitexcellence.org/resources/advocacy

BOARD DEVELOPMENT

Guiding Principle

A Board of Directors is responsible for providing overall leadership and strategic direction for the nonprofit it serves. Founders and Board members are not owners of the organization, but rather stewards of its mission and resources.

While state and federal laws determine how a nonprofit is governed, Boards are responsible for setting governance and operations policies, developing and amending bylaws and ensuring the organization has adequate resources. Boards provide oversight and direction for the Executive Director and are accountable for the responsible pursuit of the organization's mission.

Legally Required Practices

Board Conduct

- Boards of Directors must be aware of and be held to the standard of care[1] defined for fiduciary trustees under common law. The standard includes the following duties:

  o **Duty of Care:** Board members must act in good faith and with the care that an ordinarily prudent person in a similar position would exercise under similar circumstances.

  o **Duty of Loyalty:** Board members must uphold the best interests of the organization, not their own or those of another person or entity (even if charitable in nature), as they exercise their obligations.

  o **Duty of Obedience:** Board members must serve to further the mission while upholding all laws affecting the organization.

- Boards of Directors must ensure the organization's assets are used solely for the benefit of the organization and for no other personal or professional gain.

- Boards of Directors must ensure that the organization does not engage in excess benefit transactions[2], and that a clearly defined, written conflict of interest policy is signed annually by Board members and key employees.

Compliance, Filing and Reporting

- Boards of Directors must comply with all laws, regulations, reporting and filing requirements with the Internal Revenue Service (IRS), New Mexico Office of the Attorney General and New Mexico Office of the Secretary of State.

- Boards of Directors must ensure the nonprofit is in compliance with federal and state laws when engaging in advocacy.

- IRS Form 990 must be reviewed by all Board members and signed by current Board president, vice president, treasurer, assistant treasurer, chief accounting officer or other corporate officer (such as a tax officer) who is authorized to sign as of the date return is filed.

- Boards of Directors must ensure that funds are spent in compliance with the conditions attached to that funding.

- Boards of Directors must have three members at a minimum, and a maximum number of members should be stated in the bylaws.

Recommended Standard Practices

Board Positions

- Boards of Directors should have a number of members sufficient for supporting the mission and purpose of the organization, including the required three.

- Boards of Directors should strive to include individuals that are representative of the community in which they serve.

- Boards of Directors should have an active nominating committee that considers factors beyond capacity to give monetarily when recruiting members. Factors should include one's lived experience, involvement with services, professional and technical competencies, time availability and educational experience that will benefit the organization.

- Boards of Directors should have a Treasurer that serves in a leadership role in helping the Board to understand its fiscal responsibilities.

- Boards of Directors, if deemed necessary to include employees, should limit membership to the Chief Executive Officer or Executive Director. This individual should be an ex-officio, non-voting member.

Expectations of the Board of Directors

- Boards of Directors should be well-informed about the organization's mission, programs and finances in order to actively participate in decision-making and effectively champion the organization publicly.

- Boards of Directors should actively develop strong, positive connections within the relevant community on behalf of the organization.

- Boards of Directors should monitor the financial health of the organization, and ensure each member understands the content and significance of the organization's financial statements and audit.

- Boards of Directors should actively raise financial contributions from external sources.

- Boards of Directors should personally make annual financial contributions to the organization.

- Boards of Directors should receive no monetary compensation for their duties other than reimbursement for Board-related expenses.

- Boards of Directors should be actively involved in the organization's strategic planning.

- Boards of Directors should be actively involved in the organization's succession planning.

Rio Arriba Adult Literacy Program tutors hone their skills in Española

- Boards of Directors should annually evaluate their effectiveness as a governing body.

- Boards of Directors should meet quarterly at a minimum, and expect regular attendance of members.

Board Member Orientation

- Boards of Directors should provide basic orientation to every member, including:

    o   Clear expectations about roles and responsibilities

    o   Board operating policies and procedures manual

    o   Organizational operating policies and procedures (i.e. financial policies
        and employee handbook)

    o   Bylaws, Articles of Incorporation and other key documents of the organization

    o   An introduction to the work of the organization

- Boards of Directors should also receive training on legal responsibilities, including:

    o   Federal and state regulatory filings

    o   Policy approval and ongoing review

    o   Annual budget and revenue plans

    o   Financial management procedures

    o   Fiduciary duties

    o   Risk management

Board Operations

- Boards of Directors should have a formal Board operating policies and procedures manual.

- Boards of Directors should have a clear understanding of their role in human resources matters and
  the responsibilities of the Executive Director and senior management team.

- Boards of Directors should establish term limits to ensure diversity in skills, experience and leadership
  to advance the organization's mission.

- Boards of Directors should adopt practices that maximize participation, such as accommodating remote
  or electronic participation in meetings, deliberations and decision-making.

- Boards of Directors should organize Board subcommittees to effectively address the organization's
  strategies and goals (e.g., technology, human resources, finance).

- Boards of Directors should develop, define and regularly review the organization's mission.

- Boards of Directors should annually conduct a review of the organization's compensation policy
  to ensure it balances internal equity with market-based research and livable wages for all employees.

- Boards of Directors should annually conduct a review of the Executive Director's performance.

Board Accountability

- Boards of Directors should make information available to the public that describes Board decisions, barring human resource matters and Executive Committee information.

- Boards of Directors should provide constituents with ongoing opportunities to learn about the organization's activities and be responsive to questions and concerns.

- Boards of Directors should monitor and ensure:

  - Organizational compliance with the New Mexico Nonprofit Corporations Act[3]

  - Professional fundraisers are properly registered and have filed with the New Mexico Office of Secretary of State

  - Solicitation materials are truthful and free of material false statements, misrepresentations and/or omissions

  - All federal requirements for public disclosure are met

- Boards of Directors should ensure that fiscal records are kept for the legally required period of time and are true and accurate.

- Boards of Directors should develop the following clearly defined policies that pertain to the organization's mission, vision and values:

  - Code of ethics

  - Compensation

  - Gift acceptance

  - Investment

  - Record retention and destruction

  - Whistleblower

- Boards of Directors should annually review and sign a conflict of interest policy that is kept in individual Board member files.

Organizational Transparency

- Boards of Directors should responsibly use resources to support the organization's mission.

- Boards of Directors should review and approve financial audits.

- Boards of Directors should ensure the organization adheres to industry and regulatory standards that apply to its work. *For example, organizations that provide health services are required to comply with the Health Insurance Portability and Accountability Act (HIPAA).*

Board Chair or Board President Responsibilities

- Board Chairs or Board Presidents should hold Board members accountable for fulfilling governance responsibilities.

- Board Chairs or Board Presidents should prioritize increasing the Board's awareness of its obligations in regard to conflicts of interest, Board attendance, Board evaluation and compliance with the Board operating policies and procedures.

- Board Chairs or Board Presidents should preside over Board meetings.

- Board Chairs or Board Presidents should ensure the Board stays focused on the organization's strategic direction.

- Board Chairs or Board Presidents should ensure the Board conducts an annual evaluation of its effectiveness as a governing body and reviews the results with the intention of continuously improving its performance and practices.

- Board Chairs or Board Presidents should ensure Board members have access to key organizational documents, tax forms and training materials.

- Board Chairs or Board Presidents should ensure their successors have timely access to the organization's records.

BOARD DEVELOPMENT RESOURCES

1 Charitable Solicitations Act, New Mexico Office of the Attorney General:
www.nmag.gov/charitable-solicitations-act.aspx

2 Intermediate Sanctions - Excess Benefit Transactions, Internal Revenue Service:
www.irs.gov/charities-non-profits/charitable-organizations/intermediate-sanctions-excess-benefit-transactions

3 Nonprofit Corporations Act, NMSA 1978 53-8-14, New Mexico Office of the Secretary of State:
www.sos.state.nm.us/uploads/files/Corporations/ch53Art8.pdf

ADDITIONAL BOARD DEVELOPMENT RESOURCES

www.centerfornonprofitexcellence.org/resources/board-development

Gila River

Guiding Principle

Collaboration among nonprofits, as well as across sectors, can be an effective strategy for organizations to fulfill their mission and meet the needs of the community. Nonprofits with strong collaborations are positioned to achieve goals and improve organizational effectiveness and efficiency.

Strategic collaborations help organizations maximize use of resources, improve services and strengthen connections with constituents. Strong, healthy community partnerships based on trust, transparency, open communication and a shared vision strengthen the capacity of each organization, the community and nonprofit sector.

Legally Required Practices

- Nonprofits must ensure that neither their assets nor their income improperly benefit a taxable entity (i.e., individual or for-profit business) or provide private inurement to a disqualified individual when forming partnerships.

Recommended Standard Practices

Strategies for Identifying Partners

- Nonprofits should maintain an awareness of developments, changes and current trends at the local, state and federal levels and assess opportunities for joint action with other organizations.

- Nonprofits should be in the practice of regularly examining the community and identifying organizations providing similar or complementary services. Those that meaningfully collaborate can reduce duplication of services and the strain on limited community resources.

> Consider the range of collaborative possibilities: coordination of an event, pooling resources, joint advocacy, formal partnership or integration through a merger or acquisition.

- Nonprofits should assess internal capacity to effectively participate in collaboration (e.g., staffing, timing).

- Nonprofits should be clear that the partnership and associated activities are in alignment with their mission.

- Nonprofits should determine if there is mutual trust, an ability to regularly communicate, and a shared commitment to goals, objectives and activities.

- Nonprofits should engage in smaller collaborative projects prior to working on a larger initiative in order gauge the viability of the partnership.

- Nonprofits should be in the practice of connecting other organizations when they see an opportunity for collaboration between them.

- Nonprofits should ensure that any charitable organizations they collaborate with are properly registered with the New Mexico Office of the Attorney General, in good standing with the New Mexico Secretary of State and have not had their 501(c)(3) status revoked by the IRS.

Formalizing Collaborations

- Nonprofits should develop a memorandum of understanding (MOU) when entering into a formal partnership and involve their Boards of Directors in the process.

- Nonprofits should consider who will participate in discussions, including decision-making meetings, and be open to increasing the range of individuals when necessary.

- Nonprofits should agree on communication channels for decision-making (e.g., conference call, in-person meeting, signed document).

Maintaining and Strengthening Collaborations

- Nonprofit collaborations should foster an environment that encourages participants to voice their opinions, respectfully listen and respond to others.

- Nonprofit collaborations should routinely report to the entire partnership to ensure defined goals and objectives are being met.

- Nonprofit collaborations should regularly assess participating partners' fulfillment of their agreed-upon roles and use of resources.

- Nonprofit collaborations should leverage partnerships to access diverse funding opportunities.

Habitat for Humanity volunteers build a house in Taos

www.centerfornonprofitexcellence.org/resources/collaboration

Chaco Culture National Historical Park

Guiding Principle

Nonprofits with effective communications understand the importance of building internal and external trust and support, vital for achieving the organization's mission and goals.

Internal communications engage employees, Board members and volunteers in activities throughout the organization and set the stage for how the organization will engage with the public. External communications are important for raising awareness, building and strengthening reputation, and attracting volunteers and donors to the organization.

Legally Required Practices

- Nonprofits must make the following information publicly available, unless specifically exempted: applicable IRS Form 990 for three most recent years (Schedule B notwithstanding); IRS Form 1023; application for exemption; any documents submitted with the application; any letters or documents issued by the IRS with respect to the application.

- Nonprofits must keep Board meeting minutes in perpetuity and make copies available upon request in a reasonable and timely manner.

- Nonprofits must adhere to antispam laws in email communications.

- Nonprofits must honor donor requests for privacy and anonymity[1].

- Nonprofits must adhere to laws regarding copyrights and trademarks. Use of photos from the internet without consent from the photographer and/or proper attribution could be an infringement on copyrighted material.

> The IRS requires the names and addresses of donors even if they elect to be publicly anonymous. IRS Form 990 Schedule B is not a public record, only the tax preparer and IRS are given the information.

Recommended Standard Practices

Ethics and Transparency

- Nonprofits should adhere to the highest ethical and professional standards with regard to communications.

- Nonprofits should exhibit transparency, fairness and honesty in every aspect of their communications.

- Nonprofits should make operations and governance information easily accessible on their website.

- Nonprofits should only send electronic communications and updates to people who have given permission to be included on an email list and provide them with a way to unsubscribe from future communications.

- Nonprofits should send electronic communications that include the organization's name and mailing address, valid "From" information and clear subject lines.

- Nonprofits should provide the public with methods for providing input that is clear and easy to access (e.g., phone, email, web form).

Strategic Communications Planning

- Nonprofits should develop a clearly defined, written communications plan that supports the organization's overall strategic plan.

- Nonprofit communications plans should be integrated and central to all organizational planning and should demonstrate accountability to its constituents and the public.

- Nonprofit communications plans should include goals, target audiences, core messages, tools, intended outcomes and means to evaluate results, as well as an analysis of the organization's strengths, weaknesses, opportunities and challenges necessary for message framing.

- Nonprofit communications plans should be shared regularly with employees, Board of Directors and other key volunteers; and updated with current organizational priorities, technological capabilities and trends in communications.

- Nonprofits should develop communications policies pertaining to its activities, such as advocacy, approval of facts and messaging, outreach, social media, and standards for graphics, print and electronic materials.

- Nonprofits should establish measurable outcomes for their communications strategies and tactics, and regularly evaluate the success and failures of each strategy.

Internal Communications

- Nonprofits should create a culture of open and transparent internal communication that encourages employees to participate in and contribute to discussions, and where management actively solicits, listens and responds respectfully to their views.

- Nonprofits should clearly define the path of communication between employees and the Board of Directors.

Branding

- Nonprofits should establish and promote its brand both internally and externally to support and strengthen its reputation.

- Nonprofits should unify branding, marketing and public relations efforts for consistent, persuasive messaging to target audiences.

Online Communications

- Nonprofits should maintain an understanding of trends in online communications and develop a process for how to incorporate new strategies into its communications plan.

- Nonprofits should develop and maintain a social media policy that guides how the organization engages with social media platforms and protects its interests.

> Social media policies should include expectations for employees, Board members and volunteers regarding personal use of social media, while remaining in compliance with individual rights.

External Communications

- Nonprofits should develop a clearly defined, written media relations strategy.

- Nonprofits should assume all information provided to policy makers, all forms of media and the general public naturally becomes a matter of public record.

- Nonprofits should ensure that all information provided to policy makers and the public is timely, accurate and the socio-political context of the information is clear to avoid misunderstanding or manipulation of the message.

- Nonprofits should inform employees as to who within the organization is authorized to speak on behalf of the organization.

- Nonprofits should clearly define how the Board of Directors and employees distinguish personal opinions and organizational positions, because the organization may be held accountable for statements made by a Board member or employee.

Crisis Communications

- Nonprofits should develop a clearly defined, written policy for developing public statements and positions on issues.

- Nonprofits should develop a policy for promptly and respectfully responding to grievances from stakeholders.

- Nonprofits should have an identified primary organizational spokesperson(s), authorized to make public statements via traditional and social media.

- Nonprofits should identify primary and secondary communications contacts, different than the primary organizational spokesperson(s), to serve as a gatekeeper between the media and organizational spokesperson so they do not enter into conversations with reporters unprepared.

> The Board of Directors and staff should know who the primary and secondary communications contacts are and be instructed to direct all media requests to them. This should be part of Board and staff orientation.

1 "Donor Bill of Rights," Association of Fundraising Professionals:
www.afpnet.org/ethics/enforcementDetail.cfm?ItemNumber=3359

ADDITIONAL COMMUNICATIONS & MARKETING RESOURCES

www.centerfornonprofitexcellence.org/resources/communications-marketing

DIVERSITY, EQUITY & INCLUSION

Bosque del Apache National Wildlife Refuge

Guiding Principle

Nonprofits are essential for improving our communities, uplifting our collective quality of life and creating positive social and economic impact across the state. In doing this work, New Mexico nonprofits have an ethical obligation to acknowledge the diversity of our communities and the current and historic dynamics of our state.

Nonprofits have a responsibility to offer inclusive programs and services that aim to increase equity in our communities. Organizations that actively implement equitable and inclusive governance and operating practices are demonstrating an awareness of and commitment to social justice, and are well-positioned to make strong business cases for their important work. In New Mexico, commitments to diversity, equity and inclusion are critical to mission fulfillment.

Legally Required Practices

- Nonprofits must ensure that they understand and are in compliance with all applicable federal[1,2], state, and local employment laws and regulations. *For example, the federal Americans with Disabilities Act, federal Occupational Safety and Health Act, state statutes on public breastfeeding and workplace pumping, etc.*

- Nonprofits must ensure that nondiscriminatory services and organizational practices are provided in accordance with state and federal law. *For example, nonprofits must ensure that translation services are available to clients who request them.*

Recommended Standard Practices

Employee and Volunteer Recruitment

- Nonprofits should clearly define "diversity," "equity" and "inclusion" as they pertain to the organization's mission, values and strategic goals.

- Nonprofits should articulate their commitment to diversity, equity and inclusion, and leverage these principles for strategic mission fulfillment.

- Nonprofits should create a strategy for fostering relationships with diverse networks in order to broaden the pool of qualified candidates for employment, Board membership and other volunteer roles, and commit to doing so prior to making hiring or volunteer nomination decisions.

- Nonprofits should consider lived experience, involvement with services, and professional and technical competencies, in addition to educational experience, when recruiting new employees, Board members and other volunteers.

- Nonprofits should consider not asking questions on the initial application for employment related to criminal history in order to receive the maximum number of qualified applicants for the position. ⭘

> Did you know that a highly qualified prospective applicant may be screened out prematurely because they checked the "yes" box checked under, "Have you ever been convicted of a crime?"

Organizational Culture and Retention

- Nonprofits should create an environment, through inclusive leadership, where regular, open communication is a priority; internal information is shared appropriately; and employees, Board members and other volunteers are encouraged to share their diverse perspectives.

- Nonprofits should define their compensation philosophy, balancing internal equity with market-based research and livable wages for all employees[3].

- Nonprofits should promote education and professional development, and provide equitable opportunities for growth and advancement of employees.

- Nonprofits should ensure supervisors hold regular one-on-one meetings with each employee who reports to them.

- Nonprofit leaders should provide employees with regular, ongoing performance-related feedback at least monthly and evaluate the job performance of each employee at least annually.

- Nonprofits should follow clearly defined and equitable procedures when taking disciplinary action.

- Nonprofits should respond to ideas, concerns and feedback from employees and volunteers, with a commitment to fully understanding their perspective and taking action if necessary.

- Nonprofits should develop and implement procedures that allow employees and volunteers to informally express concerns and formally report and rectify grievances with a neutral external third party, if necessary.

- Nonprofits should support employees who disclose a disability and request a reasonable accommodation beyond what is required by the Americans with Disabilities Act[2].

Service Provision

- Nonprofits should ensure that services are accessible to clients (e.g., sliding scale fees, flexible office hours) and should make this information publicly available (e.g., website, signage, communication from employees).

- Nonprofits should provide a space on forms for individual self-identification in addition to any pre-set categories that are necessary for reporting purposes (e.g., male, female, Hispanic).

- Nonprofits should make every effort to provide materials in the preferred language of most of its clients, if not English, in a manner they understand and find useful (e.g., written, oral, video).

- Nonprofits should ensure services meet the specific needs of clients by regularly evaluating programs and services.

Rock climbing near Jemez Springs with Adaptive Sports Program New Mexico

DIVERSITY, EQUITY & INCLUSION RESOURCES

1 Title VII of the Civil Rights Act of 1964, US Equal Employment Opportunity Commission:
www.eeoc.gov/laws/statutes/titlevii.cfm

2 Americans with Disabilities Act Title II Regulations, Americans with Disabilities Act:
www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm

3 Wage and Hour Division, United States Department of Labor:
www.dol.gov/whd/flsa

ADDITIONAL DIVERSITY, EQUITY & INCLUSION RESOURCES

www.centerfornonprofitexcellence.org/resources/diversity-equity-and-inclusion

Guiding Principle

Nonprofits have a responsibility to regularly assess the impact of all organizational activities and to objectively learn from previous work in order to improve and better serve their communities. By regularly assessing programs and services, organizations ensure that they are best positioned to meet a demonstrated need in the community and are not duplicating services provided by others.

The appropriate evaluation of data can support program effectiveness and quality improvement. Evaluation is most effective when organizations remain nimble throughout the process, and when employees and the Board of Directors are engaged in discussions on how data will be used to make organizational improvements.

Organizations that prioritize evaluation and make improvements based on the results and knowledge gained are demonstrating a commitment to providing relevant programs and services, while being accountable to funders, clients and other supporters.

Legally Required Practices

- Nonprofits must keep personal information collected from individuals through an evaluation process confidential unless the individual has explicitly given consent for its release[1].

- Nonprofits must ensure that all ethical guidelines and state and federal regulations are followed when conducting any research or evaluation involving human subjects.

Recommended Standard Practices

Capacity to Conduct Evaluations

- Nonprofits should establish expected outcomes based on a Theory of Change and use evaluation to measure the extent to which they are achieving those outcomes.

- Nonprofits should create an environment where continuous quality improvement is prioritized and data is reviewed by the Board of Directors and employees on an ongoing basis.

- Nonprofits should utilize the appropriate evaluation methods for their work based on their programming, service provision and capacity.

- Nonprofits should develop a plan that includes dedicated employee time and resources for evaluation, including data collection. Employee capacity to conduct evaluations is essential to the success and sustainability of the process.

- Nonprofits should include realistic evaluation expenses in all project budgets.

- Nonprofits should invest in basic training, at a minimum, for employees to conduct evaluations and analyze data, even when working with external evaluators.

Father & daughter lay a memorial brick at El Refugio, Inc. in Alamogordo

- Board members should be provided with basic training so they can understand data that staff presents.

- Nonprofits should establish evaluation procedures for data collection, confidential storage, analysis and reporting.

Creating Evaluation Systems

- Nonprofits should ensure evaluations, whether conducted internally or by external evaluators, follow the national Guiding Principles for Evaluators[2].

- Nonprofits should include Board members, employees and constituents throughout the evaluation process to inform development, implementation and interpretation of results, reporting and adaptation of programs.

- Nonprofits should use evaluation methods and collect data in ways that are culturally respectful and accessible to participants.

- Nonprofits should determine which evaluation methods to use based on well-defined program goals and performance indicators.

- Nonprofits should define program goals that are realistic and appropriate to the organization's mission and size (budget, staff capacity).

- Nonprofits should define performance indicators that measure outputs, outcomes, impact and satisfaction with programs and services.

- Nonprofits should systematically collect qualitative and quantitative data in ways and over periods of time that are manageable for the organization.

- Nonprofits should ensure that all data is kept in a locked filing cabinet or on a password protected computer, with data de-identified so that participants' names are not associated with responses.

Implementing and Sharing Results

- Nonprofits should use evaluation results to gauge organizational effectiveness, make improvements to programs, guide internal operations and governance activities, and to inform strategic and annual work plans.

- Nonprofits should openly share evaluation results with employees, Board of Directors, constituents, donors, and community partners to demonstrate organizational impact and ongoing need, as well as organizational commitment to learning and improvement.

EVALUATION RESOURCES

1 "New Mexico Governmental Conduct Act Compliance Guide," New Mexico Office of the Attorney General:
   www.nmag.gov/uploads/files/Publications/ComplianceGuides/Governmental%20Conduct%20Act%20
   Compliance%20Guide%202015.pdf

2 "American Evaluation Association Guiding Principles For Evaluators," American Evaluation Association:
   https://www.eval.org/p/cm/ld/fid=51

ADDITIONAL EVALUATION RESOURCES
www.centerfornonprofitexcellence.org/resources/evaluation

FINANCIAL MANAGEMENT

Guiding Principle

Nonprofits have an obligation to act as responsible stewards of all financial resources. This includes complying with all legal and financial requirements, and adherence to sound accounting principles that produce reliable financial information, ensure fiscal responsibility and build public trust.

Legally Required Practices

Filing and Reporting

- Nonprofits must submit the relevant version of the IRS Form 990[1] to the IRS annually.

- Nonprofits must be aware of the federal rules for tax on unrelated business income of exempt organizations and file IRS Form 990-T[2] if the organization is subject to the tax[3].

- Board members must review IRS Form 990 prior to submission to the IRS and it must be signed by the current Board president, vice president, treasurer, assistant treasurer, chief accounting officer or other corporate officer (such as a tax officer) who is authorized to sign.

- Nonprofits must make the following information publicly available, unless specifically exempted: applicable IRS Form 990 for three most recent years (Schedule B notwithstanding); IRS Form 1023; application for exemption; any documents submitted with the application; any letters or documents issued by the IRS with respect to the application.

- Nonprofits must submit a copy of their audit report to the New Mexico Office of the Attorney General[4].

- Nonprofits that exist in New Mexico or solicit donations in New Mexico must register and file annual reports with the New Mexico Office of the Attorney General, unless exempted, which includes submitting a complete copy of the relevant version of IRS Form 990.

- Nonprofits must update their registration with the New Mexico Office of the Secretary of State annually.

> **Filing Deadlines:**
>
> IRS: 15th day of the 6 month (4 ½ months) after the close of the nonprofit's fiscal year, unless an extension is filed.
>
> NM Office of the Attorney General: 6 months after the close of the nonprofit's fiscal year, unless an extension is filed.
>
> NM Office of the Secretary of State: 15th day of the 5th month (4 ½ months) after the close of the nonprofit's fiscal year, unless an extension is filed.

Financial Accountability

- Nonprofits must comply with all financial regulations, such as withholding and payment of federal, state and payroll taxes, and manage all funds according to their restrictions.

- Nonprofits with total revenue in excess of $500,000 in the previous fiscal year must have an audit conducted by an independent Certified Public Accountant in accordance with the Generally Accepted Accounting Principles (GAAP).

- Nonprofits that expend more than $750,000 in federal funds for their operations in a single year must obtain a single audit from an independent Certified Public Accountant.

- Nonprofits must use assets solely for the benefit of the organization and not for personal or other gain.

- Nonprofits must not engage in excess benefit transactions[5].

- Nonprofits must adhere to procurement regulations as defined by the Office of Management and Budget (OMB) Uniform Guidance when purchases are made using federal funds.

- Nonprofits must spend funds in compliance with the conditions attached to that funding by the funder or donor.

- Nonprofits must adhere to the Payment Card Industry (PCI) standards for handling credit card information[6].

- Nonprofits must have a clearly defined, written conflict of interest policy signed annually by Board members and key employees.

Recommended Standard Practices

Budgets and Financial Reporting

- Boards of Directors should have a sufficient understanding of the assumptions behind the development and implementation of the organization's budget so they can approve and endorse a reasonable and achievable annual budget that supports and sustains the strategic plan.

- Boards of Directors should review and approve detailed revenues and expenditures each fiscal year.

- Boards of Directors should review financial reports at least every other month.

- Boards of Directors should understand how to read and interpret financial statements.

- Boards of Directors should develop clearly defined, written financial policies and procedures that provide for separation of duties, and protect and safeguard organizational assets.

- Nonprofits should have appropriate financial management software to record and track revenues, expenses, assets and liabilities including:

  o   Cash

  o   In-Kind Contributions

  o   Payroll

  o   Capital Leases

  o   Revenues (grants, programs, services)

  o   Contracts

  o   Investments

  o   Debt Liabilities

  o   Accounts Receivable

Help A Horse Day in Ranchos de Taos at Spirit Equine Sanctuary

Financial Oversight

- Boards of Directors should include a member who has knowledge of accounting and financial management (CPA or equivalent).

- If an independent audit is being conducted, a Board subcommittee should oversee the audit process.

- Nonprofits that are not required to have an independent audit should have clearly defined, written procedures for annual review of all financials.

- Nonprofits should develop a clearly defined, written whistleblower policy to protect individuals who report financial misconduct from negative repercussions.

- Nonprofits should secure appropriate levels of funding to carry out their mission and diversify revenue sources when possible.

- Nonprofits should work to avoid recurring deficits and aim towards building sufficient operating reserves. *The amount in reserves depends on a variety of factors, but a good rule of thumb is to have enough unrestricted funds on hand to cover between three and six months of operating expenses.*

- Nonprofits should develop systems for accounts payable and receivable that ensure invoices are sent and received in a timely manner.

Internal Controls

- Nonprofits should develop a system of internal controls based on the size of the organization's financial and human resources.

- Nonprofits should separate financial duties as a checks and balances system to prevent theft, fraud and inaccurate reporting.

- Nonprofits should assess risks, take appropriate action to minimize these risks, and purchase appropriate types and levels of insurance to wisely manage liabilities.

Financial Transparency

- Nonprofits should accept funds and negotiate contract terms that align with the organization's mission.

- Nonprofits should develop a system to ensure that funding restrictions are maintained.

Board Treasurer Responsibility

- Board Treasurers should assume a leadership role in helping the Board understand its fiscal responsibilities.

- Board Treasurers should work with organizational leadership to ensure Board awareness of current financial conditions, so that timely adjustments can be made as needed.

FINANCIAL MANAGEMENT RESOURCES

1 Form 990, Return of Organization Exempt from Income Tax, Internal Revenue Service:
www.irs.gov/uac/about-form-990

2 Form 990-T, Exempt Organization Business Income Tax, Internal Revenue Service:
www.irs.gov/uac/form-990-t-exempt-organization-business-income-tax-return

3 Publication 598, Tax on Unrelated Business Income of Exempt Organizations, Internal Revenue Service:
www.irs.gov/uac/about-publication-598

4 Charitable Solicitations Act, New Mexico Office of the Attorney General:
www.nmag.gov/charitable-solicitations-act.aspx

5 Intermediate Sanctions - Excess Benefit Transactions, Internal Revenue Service:
www.irs.gov/charities-non-profits/charitable-organizations/intermediate-sanctions-excess-benefit-transactions

6 "Payment Card Industry (PCI) Standards," Center for Nonprofit Excellence at United Way Central New Mexico:
www.centerfornonprofitexcellence.org/payment-card-industry-pci-standards

ADDITIONAL FINANCIAL MANAGEMENT RESOURCES
www.centerfornonprofitexcellence.org/resources/financial-management

FUNDRAISING $

Rio Grande River and Sandia-Manzano Mountains

Guiding Principle

Nonprofits foster cultures of philanthropy where people feel connected to their communities and compelled to improve them. Nonprofits engage individuals and businesses based on shared values and provide them with opportunities to make meaningful contributions. Nonprofits also engage with foundations and government to address specific needs that have been identified within the community.

Nonprofits build trust by being good stewards and conducting fundraising activities according to the highest ethical standards with regard to solicitation, acceptance, recording, reporting and use of funds.

Legally Required Practices

Soliciting Funds

- Nonprofits must register annually with the New Mexico Office of the Attorney General and with any other states in which the organization is soliciting charitable contributions before making solicitations[1].

- Nonprofits must comply with the New Mexico Bingo and Raffle Act as it pertains to charitable gaming[2,3].

- Nonprofits must follow federal laws concerning Do-Not-Call lists and New Mexico law regarding telephonic solicitations[4].

- Professional fundraisers[5] working on behalf of a nonprofit must register with the New Mexico Office of the Attorney General prior to entering into a contract with the organization. The professional fundraiser should adhere to the Association of Fundraising Professionals' Code of Ethical Principles and Standards[6].

- Nonprofits must adhere to the Payment Card Industry (PCI) Security Standards for handling credit card information[7].

> It is important that nonprofits adhere to conditions regarding restricted and unrestricted funding.

Use of Funds

- Nonprofits must provide clear and accurate information about fundraising activities, including transparent communication regarding use of funds.

- Nonprofits must spend funds in compliance with the conditions attached to that funding.

- Nonprofits must not engage in excess benefit transactions with donors[8]. *For example, nonprofits must price fundraising events so the nondeductible cost equals the value of the goods or services made available to the donor at that event.*

Donor Acknowledgments[9]

- Nonprofits must provide written acknowledgment to donors, upon their request, who make single contributions of $250 or more (monetary or in-kind). Nonprofits should consider acknowledging contributions of any size to enable a donor to receive a charitable tax deduction.

- Nonprofits must provide written acknowledgment to donors who make 'quid pro quo' contributions of $75 or more in which there is a donor benefit (e.g., a donor gives $100 in exchange for a concert ticket with a fair market value of $40).

- Nonprofits must not trade or sell contact information for any donor without prior permission from that donor.

Recommended Standard Practices

Development Department

- Nonprofit leadership and all development employees should adhere to the Association of Fundraising Professionals' Code of Ethical Principles and Standards.

- Nonprofits should not base compensation for development employees on a percentage of funds raised or other commission-based formulas.

- Nonprofits should adopt a fundraising plan that ensures diverse streams of funding to meet budgeted objectives.

- Boards of Directors should develop a clearly defined, written gift acceptance policy that defines conditions under which financial contributions or in-kind gifts would be declined for purposes outside the scope of the organization's mission.

Grant Seeking and Management

- Nonprofits should develop clearly defined, written policies and procedures for grant seeking and grant management.

- Nonprofits should submit complete, accurate and timely reports to grant funders.

Donor Relations

- Boards of Directors should develop a clearly defined, written policy that protects donor information.

- Nonprofits should acknowledge in-kind gifts of any value, not just the requirement for those valued at $250 or more.

- Nonprofits should respect donor requests regarding recognition of their contributions and the handling of personal information (e.g., requests for anonymity, frequency and method of communication).

- Nonprofits should ensure all donor solicitation materials accurately represent the mission and services of the organization.

> In order to receive a tax deduction, it is the donor's responsibility to state the value of an in-kind gift. As such, thank you letters not intended to serve as receipts for gifts in-kind should not contain item value or reference to tax terms.

Record Keeping

- Nonprofits should have a system for consistent record keeping of all gifts received[10].

Preparing for Bowl for Kids' Sake fundraiser in Las Cruces for Big Brothers, Big Sisters

FUNDRAISING RESOURCES

1 Charitable Solicitations Act, New Mexico Office of the Attorney General:
www.nmag.gov/charitable-solicitations-act.aspx

2 Minimum Internal Control Standards (MICS) for Nonprofit Gaming Operations," New Mexico Gaming Control Board:
www.nmgcb.org/uploads/FileLinks/609df44dc05e48b68baba1d5319109df/NP_MICS___adopted_2_12_2014.pdf

3 "A Guide to Gambling/Gaming Activities in New Mexico," New Mexico Gaming Control Board:
www.nmgcb.org/gambling-review.aspx

4 "Donor Bill of Rights," Association of Fundraising Professionals:
www.afpnet.org/ethics/enforcementDetail.cfm?ItemNumber=3359

5 "Charity Registration Frequently Asked Questions," New Mexico Office of the Attorney General:
www.nmag.gov/charity-registration-faq.aspx

6 "Code of Ethical Standards," Association of Fundraising Professionals:
www.afpnet.org/Ethics/EnforcementDetail.cfm?ItemNumber=3261

7 "Payment Card Industry (PCI) Standards," Center for Nonprofit Excellence at United Way Central New Mexico:
www.centerfornonprofitexcellence.org/payment-card-industry-pci-standards

8 Intermediate Sanctions - Excess Benefit Transactions, Internal Revenue Service:
www.irs.gov/charities-non-profits/charitable-organizations/intermediate-sanctions-excess-benefit-transactions

9 "Charitable Contributions - Substantiation and Disclosure Requirements," Internal Revenue Service:
www.irs.gov/pub/irs-pdf/p1771.pdf

10 "Gift Acceptance Policies," National Council of Nonprofits:
www.councilofnonprofits.org/tools-resources/gift-acceptance-policies

ADDITIONAL FUNDRAISING RESOURCES

www.centerfornonprofitexcellence.org/resources/fundraising

HUMAN RESOURCES

Guiding Principle

Nonprofits that place a high priority on equitable hiring practices and creating a safe and inclusive work environment – characterized by dignity and respect for all people based on sex, sexual orientation, gender identification, marital status, age, race, religion, color, national origin, geographic location, physical or mental disability, veteran status and income – attract, engage and empower every employee to contribute and productively work together to advance the organization's mission.

Legally Required Practices

- Nonprofits must ensure that they understand and comply with all federal, state and local employment laws during recruitment, hiring, retention, promotion, reassignment and dismissal of employees[1, 2, 3].

  o Under federal law, the following types of discrimination are prohibited: age, disability, equal pay/compensation, genetic information, harassment, national origin, pregnancy, race/color, religion, retaliation, sex and sexual harassment.

- Nonprofits must not make pre-employment inquiries related to race, height, weight, financial information, unemployment status, background checks, religious affiliation or beliefs, citizenship, marital status, number of children, sex/gender, disability or medical questions and examinations.

> The IRS uses the example that an employer's reliance on word-of-mouth recruitment by its mostly Hispanic workforce may violate the law if the result is that almost all new hires are Hispanic.

  o Nonprofits may be required by law to conduct background checks for new hires depending on the specifics of the job description (i.e., working with children).

  o Under federal law, employers are explicitly prohibited from screening prospective employees for disabilities or requiring medical examinations in advance of a job offer. Nonprofits may ask if an accommodation is necessary to perform a specific job duty, and if the answer is yes, then the nonprofit may ask what the accommodation would be[4].

- Nonprofits must make individualized determinations rather than having a blanket exclusionary policy for hiring people with arrest or conviction records.

- Nonprofits must display official Federal Department of Labor posters where employees can readily observe them[5].

- Nonprofits must provide adequate notice and information about continuation of benefits to terminated emloyees[6].

Recommended Standard Practices

Basics

- Nonprofits should have a comprehensive and regularly updated employee handbook.

- Nonprofits should identify at least one person within the organization to be the point of contact for Human Resources issues. This individual should be provided with ongoing education and support in understanding the field of Human Resources and implementing industry best practices and maintaining regulatory compliance.

- Nonprofits should consider obtaining Employment Practice Liability Insurance (EPLI).

Recruitment and Hiring

- Nonprofits should be prepared with a plan for how vacancies in senior leadership will be filled, including in the event of voluntary and unexpected departures.

- Nonprofits should make every effort to equitably develop and promote employees from within the organization.

- Nonprofits should create a strategy for breaking into diverse networks in order to broaden the pool of qualified candidates, and commit to doing so prior to making hiring decisions.

- Nonprofits should make every effort to seek candidates who demonstrate commitment to the mission, values and objectives of the organization.

- Nonprofits should consider not asking questions on the initial application for employment related to criminal history in order to receive the maximum number of qualified applicants for the position[7].

- Nonprofits should conduct background checks if staff will be working directly with vulnerable populations[8].

- Nonprofits should develop a narrowly tailored policy for screening applicants for criminal conduct.

- Nonprofits should provide every new hire with a clear and current job description, a comprehensive orientation, and the resources they need to achieve the objectives of the position.

Transparency and Accountability

- Nonprofits should create a culture where regular, open communication is a priority; internal information is shared appropriately; and employees are given opportunities to provide input about organizational activities and results.

- Nonprofits should regularly and broadly promote human resources policies to ensure employees understand federal and state laws, including their employee rights and the prohibition of employment discrimination and harassment.

- Nonprofits should provide regular and appropriate opportunities for communication and collaboration between employees and the Board of Directors.

- Nonprofits should develop clearly defined, written whistleblower and grievance policies to protect employees. They should define the chain of command and appropriate communication mechanisms that employees use (e.g. phone, email, in person).

Compensation

- Nonprofits should define their compensation philosophy, balancing internal equity with market-based research and livable wages for all employees.

- Nonprofits should provide employees with adequate benefits, including health insurance and the opportunity to financially contribute to retirement plans.

- Nonprofits that need to reduce their workforce should consider providing affected employees with information on unemployment compensation, job placement assistance and sound references.

- Nonprofits should develop a clearly defined, written policy on how they provide references for former employees that includes who the appropriate person is to provide references and what information the reference should include.

- Nonprofits should consider the pros and cons of paid time off (PTO) versus separate accruals for paid sick and vacation leave. *For example, if a nonprofit offers PTO, people may be disinclined to take time off when sick in order to save the time for vacation. On the contrary, employees may feel empowered by their ability to use PTO as they see fit.*

- Nonprofits should consider having a paid parental leave policy, beyond what the Family and Medical Leave Act already covers, that meets the following criteria:

    o Employees do not have to exhaust sick leave or PTO first

    o Applicable to mothers and fathers

    o Applicable to childbirth, foster care and adoption

Management

- Nonprofits should provide employees with ongoing performance-related feedback, a performance evaluation at least annually, and encourage participation through self-evaluation in order to engage them in professional development planning and goal setting.

- Nonprofits should have clear and equitable accountability and disciplinary action procedures.

- Nonprofits should develop a clearly defined, written policy and procedures for record collection, storage and retention of personnel files.

- Nonprofits should conduct voluntary exit interviews for departing employees leaving the organization on their terms, not only with people who had high-performance or long-term employment.

- Nonprofits should conduct exit interviews with two primary intentions:

  o To gain perspective on how it can improve as a workplace

  o To ensure employees have an opportunity to share their personal experience working for the organization

Training and Development

- Nonprofits should promote education and professional development, and provide equitable opportunities for growth and advancement of employees.

- Nonprofits should budget for the professional development of employees.

- Nonprofit supervisors should meet with employees on a regular basis to review professional development goals.

HR RESOURCES

1 Laws Enforced by EEOC, United States Equal Employment Opportunity Commission:
www.eeoc.gov/laws/statutes/index.cfm

2 Human Rights Information, New Mexico Department of Workforce Solutions:
www.dws.state.nm.us/Human-Rights-Information

3 Family Medical Leave Act (FMLA), United States Department of Labor:
www.dol.gov/general/topic/benefits-leave/fmla

4 "Pre-Employment Inquires and Disability," United States Equal Employment Opportunity Commission:
www.eeoc.gov/laws/practices/inquiries_disability.cfm

5 First Step Poster Advisor, United States Department of Labor:
https://webapps.dol.gov/elaws/posters.htm

6 "Health Plans & Benefits: Continuation of Health Coverage – COBRA," United States Department of Labor:
www.dol.gov/general/topic/health-plans/cobra

7 "Consideration of Arrest and Convictions Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,"
United States Equal Employment Opportunity Commission:
www.eeoc.gov/laws/guidance/arrest_conviction.cfm

8 "Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals with Disabilities in Need of Support," United States
Department of Justice:
www.ncjrs.gov/pdffiles/167248.pdf

ADDITIONAL HR RESOURCES
www.centerfornonprofitexcellence.org/resources/human-resources

LEADERSHIP

El Malpais Wilderness Area and National Park

Guiding Principle

Nonprofit leaders carry out challenging missions with limited resources and sometimes conflicting demands, all in the midst of constantly evolving networks of organizational and professional relationships. Strategic leadership allows nonprofits to maximize the ideas and resources available in their organizations, networks and communities for greater impact on the common good.

While leadership comes from both the Board of Directors and the Executive Director, nonprofits benefit from broad and inclusive participation in important discussions and decision-making. By engaging diverse groups of people who care about the organization's work, nonprofits can mobilize support, learn from constituents and respond to the needs of the community.

Recommended Standard Practices

Decision-Making

- Nonprofit leaders should communicate the structures and processes for decision-making in the organization by management and the Board of Directors.

- Nonprofit leaders should lead by example and provide oversight on moral and ethical issues and decision-making.

- Nonprofit leaders should encourage the organization to make difficult and timely decisions.

Planning

- Nonprofit leaders should implement a sustainable business model that takes into account the organization's size, focus, funding sources and activities.

- Nonprofit leaders should develop both annual and multi-year strategic plans in order to regularly assess the changing environment and create a roadmap to steer the organization through changes.

Upholding Mission and Values

- Nonprofit leaders should understand root causes of the issues their organization addresses and use that awareness to focus organizational priorities.

- Nonprofit leaders should manage external relationships with funders, community partners and other stakeholders in ways that uphold the organization's mission-focused work. This responsibility protects the organization's reputation and safeguards against excessive control by funding sources.

Fostering Organizational Culture

- Nonprofit leaders should model transparency, fairness and honesty in every aspect of their communications.

- Nonprofit leaders should prioritize and model a healthy balance between professional and personal life.

- Nonprofit leaders should communicate, model and hold themselves and employees accountable to the organizational values and principles, norms and behaviors expected of colleagues.

- Nonprofit leaders should promote information sharing and interaction throughout the organization so innovation and creativity can come from employees at every level of the organization.

Youth at Advocacy Camp in Tesuque with the Santa Fe Mountain Center's GSA Network

- Nonprofit leaders should ensure that conflicting views can be expressed respectfully on the way to reaching resolution.

- Nonprofit leaders should identify and implement opportunities that enhance a positive, ethical and inclusive working environment.

- Nonprofit leaders should encourage employees and the Board of Directors to seek out and leverage the diverse values and perspectives of their peers and others within the organization.

Developing Staff

- Nonprofit leaders should encourage the ongoing development of skills and knowledge of employees at every level within the organization.

- Nonprofit leaders should provide employees with regular, ongoing performance-related feedback at least monthly, and evaluate the job performance of each employee at least annually.

- Nonprofit leaders should provide employees with an opportunity to self-evaluate, at least annually, in order to engage them in their own professional development planning and goal setting.

Succession Planning

- Nonprofit leaders should develop a staff management program that is focused on recruitment, retention and development for long-term organizational success.

- Nonprofit leaders should develop a replacement program plan that ensures strong leadership, accountability and service provision during periods of transition.

- Nonprofit leaders should invest sufficient resources in the development of a talent pipeline within the organization.

www.centerfornonprofitexcellence.org/resources/leadership

TECHNOLOGY @

Mills Canyon, Kiowa National Grasslands

Guiding Principle

Nonprofits successfully delivering services and engaging in activities such as marketing, fundraising and grant accounting understand the importance of technology in achieving outcomes.

Nonprofits using information technology (IT) effectively and with integrity are better positioned to maintain their relevancy in our sector's competitive environment. Nonprofits that make sound and strategic investments in IT understand it is a resource that helps advance their mission.

Legally Required Practices

- Nonprofits that use information technology must identify risk management issues with an insurance provider regarding required and recommended technology insurance.

Recommended Standard Practices

Network Security and Access Control

- Nonprofits should maintain ongoing security measures, such as off-site electronic back-ups and regularly updated virus protection, to prevent devastating repercussions to the organization's operations and reputation.

- Nonprofits should have safeguards in place to protect digital information from outside intrusions. These safeguards should be reliably accessible to those with managed permissions.

- Nonprofits should develop a recovery plan in the event of a catastrophic loss or intrusion.

- Nonprofits should develop a policy for providing and removing access from employees and contractors.

- Nonprofits should develop a policy for passwords, including the number of characters to be used and frequency for changing.

> Security experts recommend creating strong passwords with a minimum of 12 random characters and changing them annually.

- Nonprofits committed to risk management and compliance should consider cybersecurity insurance that covers physical damage to files, cost for restoration and loss of income that may result in technology interruptions.

Technology Planning

- Nonprofits should have a clearly defined, written IT plan that guides decision making and acquisition of new technology.

- Nonprofits should develop an IT plan with a variety of stakeholders who understand the organization's programs, operations, financials and strategic plan for the future (e.g., Board of Directors, senior leadership, other key employees and external technology professionals familiar with the organization).

- Nonprofits should ensure the IT plan includes short and long-term strategic and operational goals that align with the organization's mission and larger strategic plans for the future.

- Nonprofits should ensure the IT plan articulates the levels of and continuity of service acceptable to the organization (e.g., How long could the organization go without internet service? How long without email?).

- Nonprofits should include in the IT plan telecommunications equipment and services that are dependent on reliable network capabilities (e.g., security systems, video conferencing, audiovisual equipment).

- Nonprofits should ensure that accurate funding projections for acquisition and maintenance of technology are included in capital and operational budgets.

- Nonprofits should ensure the IT plan includes sufficient allocation of resources to train employees, Board members and other volunteers engaging with the organization's technology on how to use, maintain and service the equipment.

IT Management

- Nonprofits should establish an IT subcommittee, comprised of key employees and Board members who meet regularly to develop and provide recommendations about IT operations and requirements to leadership and the Board of Directors.

- Nonprofits should develop and actively implement technology and security policies that address employee and Board use, how information is gathered and stored, how accuracy is maintained, how and what information is backed up, and to whom the information is made available.

- Nonprofits should develop a clearly defined, written policy regarding record retention and destruction that includes emails, cloud-based and hard copy documents.

> If documents are subpoenaed by a court of law, there is a legal requirement to retain those documents and present them, as needed.

- Nonprofits should designate an employee to be responsible for IT operations. This person should serve as point of contact for external technology consultants, be included in technology-related decision-making, and have sufficient expertise, time, and authority to ensure organizational compliance and IT operations are met.

- Nonprofits should maintain an updated and secure record of credentials for all accounts (e.g., online survey tools, domain management, social media).

- Nonprofits should establish acquisition standards for software and hardware to avoid duplication or non-compatible systems.

- Nonprofits should ensure that the purchasing of technology equipment follows established acquisition standards and that authorized IT personnel approve purchases.

- Nonprofits should provide ongoing employee training on the use of information management systems relevant to their work.

- Nonprofits should ensure support agreements, licenses, and web domain registrations are up to date.

- Nonprofits should maintain a working knowledge of advancements, trends and developments in technology.

- Nonprofits should plan for appropriate depreciation of IT equipment and proper recycling of outdated hardware.

Social Media

- Nonprofits should develop a clearly defined, written social media policy that guides how the organization engages with social media and protects its interests. The social media policy should include expectations for employees, Board members and other volunteers regarding personal use of social media, while remaining in compliance with individual rights.

- Nonprofits should develop procedures for using evaluation tools to analyze effectiveness of social media campaigns.

College Horizons, Inc. group roller coaster during college visit

www.centerfornonprofitexcellence.org/resources/technology

VOLUNTEER MANAGEMENT

Chimney Rock

Guiding Principle

Volunteers are a crucial resource for nonprofit organizations. They build nonprofit capacity by bringing ideas, energy and expertise that advances the organization's mission.

Nonprofits have an obligation to act as responsible stewards of the skills and time that volunteers bring to the organization.

Legally Required Practices

- Nonprofits must understand the legal requirements surrounding use of volunteers within an organization.

- Nonprofits must pay employees for all hours worked. They cannot simultaneously serve as unpaid volunteers when performing duties for which they would otherwise be paid[1].

- Nonprofits must provide financial reimbursement to volunteers only for business-related expenses.

- Nonprofits that pay stipends must report on IRS Form 1099-MISC when appropriate[2].

Recommended Standard Practices

Recruitment

- Nonprofits should identify what benefit the organization will receive from the effective use of volunteers.

- Nonprofits should assess the organization's readiness for volunteers, including capacity and resources to support and manage a volunteer program.

- Nonprofits should be aware of liability and risk issues as well as insurance needs for volunteers.

- Nonprofits should develop clearly defined, written volunteer job descriptions including scope of work, necessary skills, expected time commitment and the impact and benefits of the volunteer's service.

- Nonprofits should delineate and communicate volunteer roles and responsibilities to all employees who work with volunteers.

- Nonprofits should incorporate a broad range of internal and external strategies to reach diverse groups of volunteers.

- Nonprofits should conduct background checks if volunteers will be working directly with vulnerable populations[3].

Engagement

- Nonprofits should develop strategies to appropriately engage volunteers based on interests and skills.

- Nonprofits should provide volunteers with an orientation appropriate to their role.

- Nonprofits should acknowledge volunteers for the impact and value they bring to the organization.

Supervision

- Nonprofits should keep in mind that youth volunteers may require special waivers, increased supervision and limited volunteer hours[4].

- Nonprofits should structure the volunteer program so that each volunteer has a direct connection with an identified supervisor and receives a level of support appropriate for their role.

- Nonprofits should develop clearly defined, written accountability and disciplinary action procedures for volunteers.

- Nonprofits should provide volunteers with ongoing performance-related feedback.

- Nonprofits should present volunteers with opportunities to provide feedback to the organization.

- Nonprofits should evaluate volunteer programs to determine impact.

- Nonprofits should keep a log of volunteer hours to assist with volunteer recognition, award nominations, and in leveraging grant funding.

Volunteers sort produce in Albuquerque at Roadrunner® Food Bank of New Mexico

VOLUNTEER MANAGEMENT RESOURCES

1 "Fact Sheet #14: Non-Profit Organizations and the Fair Labor Standards Act (FLSA)," United States Department of Labor:
www.dol.gov/whd/regs/compliance/whdfs14a.htm

2 Form 1099-MISC, Miscellaneous Income, Internal Revenue Service:
www.irs.gov/uac/about-form-1099misc

3 "Guidelines for the Screening of Persons Working with Children, the Elderly, and Individuals with Disabilities in Need of Support,"
United States Department of Justice:
www.ncjrs.gov/pdffiles/167248.pdf

4 Child Labor, New Mexico Department of Workforce Solutions:
www.dws.state.nm.us/Labor-Relations/Labor-Information/Child-Labor

ADDITIONAL VOLUNTEER MANAGEMENT RESOURCES
www.centerfornonprofitexcellence.org/resources/volunteer-management

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