

# CHARITY CONFLICTS *of* INTEREST: *A Guide*

by David O. Renz

**Editors' note:** *Legally, there are many types of nonprofits in the world. A large share of them are charities, but other types of nonprofits include business leagues, professional associations, cooperatives, labor organizations, and more.<sup>1</sup> The general issues regarding conflicts of interest exist for all types of nonprofits, but it is essential to recognize that the legal expectations generally are more stringent for charities than for most other types of nonprofits. This is true for charities in the United States, and for charities in the nations of the United Kingdom and throughout much of the rest of Europe. Thus, when this article discusses charities, it explicitly addresses nonprofits that have been recognized as such by their home nation, and the legal, ethical, and political expectations that accrue to this specific type of nonprofit organization.*

**A**S WIDELY USED AS THE PHRASE IS, *CONFLICT of interest* may be among the least understood of all governance and leadership challenges that confront today's charitable nonprofit sector. Most charity board members and executives have a general intuition of what it means and why it may be an issue for their organization (although most appear quite reticent to actually tackle it in real life). And yet, as the old saw warns, "It isn't what you don't know that will get you—it's what you do know *that's not true!*"

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Conflicts of interest abound in our sector, and they arise for logical and even beneficial reasons. The problem is not that they exist—it's that we tend to misunderstand and inappropriately address them. Conflicts of interest pose risk, and they need to be assessed and managed from a risk leadership perspective.<sup>2</sup> There are times when charities actively seek relationships that pose conflicts of interest, such as electing board members with particular political connections and associations, and that is appropriate *if* the risks being taken are managed to advance the mission and interests of the organization without violating the organization's core principles or values.

## Starting with the Basics

It is important to recognize that most people have only a general sense of what constitutes a conflict of interest, and their perspectives tend



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to be incomplete and even inaccurate. So, let's start with a definition—or, to be more specific, a couple of definitions.

It is instructive to consider the differences in conflict-of-interest definitions for charities in the United States versus the United Kingdom and many other nations of Europe. In the United States, a conflict of interest typically is defined by regulatory authorities (e.g., the federal Internal Revenue Service [IRS], and many states' attorneys general) as a situation in which (per the IRS) an individual's "obligation to further the organization's charitable purposes is at odds with their own financial interests."<sup>3</sup> In other words, the IRS focus is largely on the private benefit of individuals and inappropriate financial gain. Most nations in the United Kingdom and the rest of Europe take a broader, interest-based perspective—one that is more complete and (I believe) useful in understanding and addressing the true character and consequences of conflicts of interest affecting today's nonprofits, because they focus on interests rather than on merely private gain or benefit.

The Charity Commission for England and Wales, for example, defines a conflict of interest as one in which the governing board member (or, as they are labeled in its system, the trustee) has a ". . . situation in which a trustee's personal interests or responsibilities they owe to another body, may, or may appear to influence the trustee's decision making."<sup>4</sup> The conflict, here, is with regard to the competition between putting the governed organization's interests first (as the duty of loyalty requires) versus placing some other interests first in the decision making.

These nations' laws and policies focus on the imperative of acting in the best interest of the charity, and treat the issue of inappropriate personal benefit or financial gain as just one type of conflict of interest. They also make explicit that the issue includes *appearances* of conflict of interest—which means that there is no need to debate the literal existence of a conflict before deciding whether there is cause for the organization to act.

And not incidentally, all of these U.S. and European nations' definitions of conflicts look

beyond just members of governing bodies; issues of conflict of interest apply to all who have substantial authority in the organization—including, of course, top executives—and they also apply to many others (for example, see the sidebar on "disqualified persons" later in this article).

Effective ethical governance in today's networked digital era demands that we employ the broader interest-based perspective (e.g., per the Charity Commission for England and Wales) as the foundation for our organizations' policies and practices, regardless of where our operations are based. To do otherwise opens the door to a myriad of problems and complications that, irrespective of legality, have the potential to damage our organizations' performance and sustainability.

An essential distinction for charity leaders is that a conflict of interest is a *condition* or *situation*. It is not in and of itself illegal. The legal and ethical problems arise when a conflict-of-interest situation is not appropriately addressed and the result is that inappropriate decisions or actions occur. Further, conflicts of interest can also be the result of a positive action that was taken to advance the cause of the organization.

For example, charities often invite people to join their governing board because they have connections and experience that will strengthen the organization's governance. And yet, some of those connections or relationships may be with other organizations or causes whose interests are at times inconsistent with those of the inviting organization.

Charity leaders must take care to recognize when those conflicting instances exist. That said, an organization may still decide it will be beneficial overall to have a given person on its board to help advance other of its interests. In some cases, it may even be essential to effective governance (such as when a community organization places clients on the board to ensure that client interests are regularly considered by the board).

In other words, the imperative is not to eliminate a conflict by avoiding highly useful members. That may well be short-sighted. Rather, the imperative is to be prepared with a

systematic policy and approach to managing the implications of—and openly addressing—such conflicts of interest, so that they do not become problematic.

This is not always simple to do. As California Association of Nonprofits CEO Jan Masaoka has observed, people (both inside and outside a nonprofit) often fall prey to either (or even both) of “two oddly opposite mistakes” when it comes to judging conflicts of interest. Too often, they (a) employ an overly narrow and legalistic definition of conflict of interest and “focus only on matters of [personal] financial gain,” and/or (b) are quick to judge, label, and complain about “any kind of relationship at all” that they do not like “as a conflict of interest.”<sup>5</sup>

This kind of fuzziness has significant implications for nonprofits and their leaders, since perceptions of conflict of interest are often the result of divergent interpretations of the situation, from both inside and outside the organization. Legitimate or not (from the perspective of the organization’s leaders), these divergent and potentially conflicting interpretations have real consequences and often affect important relationships—especially with those whose support the organization seeks, such as donors, clients, funders, and even regulators. Thus, the governance system must have policies and procedures in place that demonstrate that the condition has been appropriately recognized, and managed or resolved.

### Getting Clearer: How Are Conflicts of Interest a Problem?

While the question of conflict of interest inevitably has legal dimensions, it is at core an ethical issue that grows directly out of the nonprofit leader’s *duty of loyalty*—the fiduciary principle that is integral to the roles of all governing board members in the United States and throughout much of the rest of the world. Duty of loyalty, of course, is one of the three primary fiduciary duties of a governing board (duty of care and duty of obedience are the other two<sup>6</sup>), and we often focus on this from only a legalistic perspective. This undermines a more complete and nuanced understanding of the truly important

challenges and imperatives these conflict situations pose. This is understandable. For those who have only a limited level of awareness, conflict of interest in the nonprofit sector is perceived largely as a concern for compliance with the laws, policies, and regulations that are designed to control for misuse of charitable assets and inappropriate private benefit (sometimes called *private inurement*). But it is so much more significant than that.

Left unaddressed (or left poorly addressed), conflict-of-interest situations (including those that involve mere perceptions of conflict) can have multiple detrimental consequences. Indeed, conflicts of interest can become a corrosive and damaging force that can do the following:

- Create or reinforce a climate of inauthenticity and mistrust that inhibits active and candid dialogue among members of a board and between board and senior executives. Over time, this will lead to a culture of disengagement and suspicion that will undermine both board and organizational performance.
- Lead to or result in decisions and actions that are not in the best interest of the organization and its constituents. At worst, these decisions or actions can expose the charity, its board, and maybe even other key officials and stakeholders to legal consequences (such as invalidating contracts or agreements, determining that an employment contract was illegitimate, and incurring financial and other penalties against the organization and/or the board).
- Risk or damage the reputation, credibility, and standing of the charity and its key officials, including members of the board and staff, regardless of whether they have acted improperly. These dynamics can result in loss of donations, volunteers, and even staff and clients.<sup>7</sup>

It is imperative that charities and their board and executive leaders understand the nature of the kinds of conflicts of interest they are most likely to confront and the consequences that may accrue if the person with the conflict is allowed to participate in the decision process.

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### What Is a “Disqualified Person” with Regard to Nonprofit Conflicts of Interest?

When the U.S. Internal Revenue Service considers whether or not to impose sanctions (i.e., penalties) on nonprofit leaders who have received inappropriate personal financial benefit, it considers whether the person who benefited is a *disqualified person*: someone who is highly influential in the governance or decision making of the nonprofit. It is essential to recognize that the category of disqualified person is not limited to those people in office (e.g., board members, top executives) at the time of an inappropriate transaction; it encompasses other people, too, including those who were in an influential role at any time *in the previous five years*—and their family members! (Note: Five years is what the policy refers to as the “lookback period.”)

As U.S. federal policy governing the IRS asserts:

*A disqualified person is 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 lookback period. It is not necessary that the person actually exercise substantial influence, only that the person be in a position to do so.*

Further, it states, “Family members of the disqualified person and entities controlled by the disqualified person [such as other nonprofits or businesses] are also disqualified persons. For this purpose, the term *control* is defined as owning more than 35 percent of the voting power of a corporation, more than 35 percent of the profits interest in a partnership, or more than 35 percent of the beneficial interest in a trust.” (It must be noted that there are additional rules that govern the practices of grantmaking foundations that we do not discuss in this article.)

### Types of Conflicts of Interest

Not all conflict-of-interest situations are the same, and nonprofit leaders and organizations need to be prepared to address issues associated with a variety of the types. Furthermore, it is essential to understand that it is more than only the governing board member or top executive who qualifies as the relevant person in these cases. Regardless of whether it is the United States or the majority of European nations, the law states that there is a larger group of people who are considered “disqualified persons” with regard to conflicting interests and private benefit, and this group includes former board members, family members, and even certain others whose interests may conflict.

There are four general categories of conflict of interest that warrant our attention:

1. *Direct financial gain or benefit to the member.* The most obvious and commonly recognized of all conflict-of-interest situations, for most people, is this type. An example is a board member whose personal company sells products or services to the nonprofit, resulting in the member receiving income from the profits. (Most people understand—but it must be overtly stated—that even when a member provides a product or service to the organization at a reduced cost, a conflict of interest still exists and must be addressed appropriately.) Of course, the egregious form of this type is when the member receives payment without having performed the appropriate service.
2. *Indirect financial gain or benefit to the member.* While also relatively obvious, this type is often less well or fully understood and appreciated. An example would be when a spouse or child in the board member’s family is hired or contracted for work with or in the organization. This type of conflict emerges at the time the decision is being made. The very act of considering a member of the family for employment creates the conflict even before he or she may receive serious consideration for engagement. Another rather common example is when a family member of someone on a school board is considered for, or provided with, a scholarship.

3. *Nonfinancial gain or benefit to the member.* This type can be a little trickier to ascertain, because the benefit is indirect. An example would be when a board member or someone related to him or her receives a service from the organization at no cost when all others must pay for the service. A variation on this is when a nonprofit allows a member (or other disqualified person) to make personal use of the organization's assets (e.g., storing a car or recreational vehicle in a vacant garage the nonprofit owns) without appropriate compensation for the use of the asset.
4. *Conflict of loyalty.* This type may be the most insidious and yet increasingly common type of conflict of interest in today's nonprofit world. The most common form is what some have labeled a "duality of interest," because it explains a situation in which a board member has obligations to other people or organizations as well as to his or her "home" organization. In such a scenario, the obligation of loyalty would apply to each, but the board member's behavior could end up advantaging one over the other. An example would be when an influential person is a board member of two different charities in a related field of interest, each of which is eligible for a competitive grant from a particular funder. The member's decision to advocate on behalf of or support one or the other may make the difference in which organization receives the grant.<sup>8</sup>

Another form of conflict of loyalty involves intra-board coalitions or subgroups that coalesce to advance some particular vision or agenda for the organization. This becomes a conflict when members of the coalition work to advance the coalition's agenda even at the expense of overall organizational success. Sometimes such coalitions emerge among groups of people who conflict with others as they embrace the original vision or interest of the founder of the organization—even at the expense of the larger organization. In other cases, these emerge as different cliques or "camps" that develop to support competing visions for the future of the organization.

Both of these can be especially debilitating if they escalate to the level of "my way or the highway" types of duels within the board.

Conflicts of loyalty have become a substantial challenge in today's highly networked digital era, and they are increasingly likely in the governance of collaboratives—especially in settings such as communities where groups of nonprofits come together as a network to address a complex critical issue. An example? A dozen nonprofits in a community come together to become a collective impact network to address a complex, "wicked" community challenge (e.g., combating the increase in childhood obesity). It is common for each organization that is a part of the network to designate one of its board members to serve on the governing body for the overall network. In such instances, every one of the members of the network governing body has a dual loyalty—to the best interests of the network and to the home nonprofit that they represent. Of course, in today's complicated world, it is quite likely that almost every nonprofit's board will have some members whose relationships cause one type of conflict of interest and others whose relationships cause one or two other types of conflicts of interest. It can get messy. Are these organizations doomed? Not necessarily. But they'd better get their act together (at the individual and network levels) to ensure that they are ready to recognize, assess, and effectively manage the conflicts before they get out of hand.

### Effectively Addressing Conflict-of-Interest Situations

The most sophisticated of charities and governing boards take care to identify and assess the conflict situation before proceeding to address it. One of the shortcomings of many charities' approaches to address conflicts of interest is that they treat conflicts of all types the same way, irrespective of the nature or source of the conflict. The majority of charities in the United States report that they have instituted formal policies to address conflicts of interest.<sup>9</sup> In my experience, however, these tend to be quite generic; and, logically, most reflect the language and procedures articulated in a sample conflict-of-interest policy

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posted by the IRS.<sup>10</sup> Unfortunately, while this will address basic legal requirements, often it will be inadequate for actually helping a charity effectively understand and address a conflict situation. As noted earlier, some conflicts of interest can be perilous, but others can be worth navigating—as long as they are managed to assess and address risk while capitalizing on the benefits of the situation. Savvy governing boards and executives take a nuanced perspective that clarifies and then assesses potential conflicts of interest from a risk and reward perspective.<sup>11</sup>

The initial stage of protection against debilitating conflicts of interest is awareness and a basic level of understanding among all board and executive leaders of the charity. This may result in the adoption or refinement of a formal policy, but formal action will have value and meaning only if the organization's leaders gain insight into the nature of conflicts of interest and what could be at stake as they address them. Thus, a proactive approach will begin with sharing the kind of information provided in this article with all who are in positions of authority, and actively discussing whether and in what ways it may be relevant to the individual organization. It makes sense to discuss the most likely types of conflicts and their implications, and then develop a tailored approach to the organization's policies and procedures that will reflect its operating conditions. The organization's leaders can then develop and adopt an informed and pragmatic policy and set of procedures to address the conflicts most likely to occur. (It must be noted that most nonprofits do not engage in such education for their members and top executives.)

Apart from variations in the definition of a conflict of interest, there is a relatively strong degree of consensus among charity conflict-of-interest policies in the United States and most European nations when it comes to content and procedures for addressing a potential conflict of interest. Essentially, all calls for procedures are very similar to the following:

#### 1. **File an annual disclosure form**

At some time, often at the beginning of a fiscal or calendar year, every board member will complete, sign, and submit a form that

indicates what they consider to be existing and potential conflicts of interest they have for the coming year. Some organizations require top executives to file this as well. Ideally, these filings are shared with all board members so that all have an understanding of the potential conflicts their colleagues might have, but such sharing is relatively rare. Such filings are often shared only with the chair or among the chair and executive committee members; other board members are left uninformed with regard to their colleagues' potential conflicts. Theoretically, the chair will lead in monitoring and addressing conflicts as they are relevant to board business.

#### 2. **Use the following procedures for addressing conflicts**

- *Board determination.* Once a board is made aware of a potential conflict, it should meet as a group to review the information and evaluate whether the situation is a problem that is—or logically could be perceived to be—a conflict that will interfere with the member's effectively honoring his or her duty of loyalty to the organization. Some boards will leave this determination to an executive or other committee, but I consider it a problem if the entire board is not ultimately involved in the determination and the basis for it.
- *Response to conflict.* If a board determines that the conflict is a problem, then the conflicted member needs to be removed from some or all activities associated with the conflict. Some policies call for the member to be excluded from all actions and decisions relevant to the conflict from the time of determination. Others call for the member to share relevant information (as would be desirable if the member has unique insight and expertise that the board would benefit from having) and then to leave the meeting(s) prior to discussion. All substantive policies call for the member to leave the meeting prior to final deliberations on the matter—and, especially, to not participate or even be in the meeting room at the time of a vote on the actual matter.

A few organizations wisely make clear an additional expectation: they explicitly require that the member with the conflict refrain from engaging in any efforts to influence their colleagues regarding the decision they are to make.

- *Documentation.* To protect itself legally and politically, the board must ensure that it has complete documentation of the process and of who was involved (board, staff, and any others) at each stage, including specific information about the votes taken, who attended the meeting, and who voted.<sup>12</sup>

A shortcoming of the above process is that it takes stock of potential areas of conflict of interest only at the beginning of the year. This is appropriate and useful as a means of identifying general topics and relationships wherein conflicts may exist over the year. But it is essential—and sophisticated policies will require—that in addition it be the responsibility of every participant to disclose an undeclared potential conflict situation at the time a specific matter arises. For each participant, the board's members need to assess the nature and scope of potentially conflicting interests. There are board members for whom certain categories or relationships always or persistently will present a conflict of interest. There are board members for whom there never will be conflicts of interest. For some (such as actors on overlapping or interlocking boards of different organizations), there will be episodic conflicts of interest. And for others, there may be only isolated situations that call for a determination of conflict. It is essential that a policy call for member disclosure on a situation-by-situation basis throughout the year in order to effectively address the episodic and sporadic situations—and far too many policies do not embrace this more active ongoing approach.

A useful example of such a policy is that of the U.S. nonprofit Give an Hour. Its board has adopted a "Conflict or Duality of Interest Policy" that acknowledges that its "directors, officers, and committee members have diverse professional and financial interests"; that these

interests "may influence the way Members carry out their responsibilities"; and thus, "to protect the reputation and integrity of the Corporation," the policy requires that they must "disclose all relationships that may influence the way Members carry out their responsibilities."<sup>13</sup> The board requires that all members disclose their interests annually at the very least. Furthermore, the policy requires that disclosure must go beyond just the annual completion of a form:

Members have a continuing obligation to disclose any potential conflict or duality of interest with respect to any transaction that affects or may affect the Corporation. In other words, notwithstanding the submission of the [attached] Disclosure Form, Members must reveal any potential conflict or duality of interest that arises after the submission of [this] form.<sup>14</sup>

Each disclosure "must describe the nature of the real, perceived, or potential conflict or duality of interest . . . and all facts known relating to the subject matter."<sup>15</sup> Following this disclosure, the governing board will review the information and make a determination about the conflict. The policy states, "The existence of a relationship as defined above does not necessarily imply ineligibility to serve, but rather that participation in some matters may be modified or avoided or, in appropriate circumstances, discontinued."<sup>16</sup>

### A Proactive Strategy

Throughout, this article discusses the issues and challenges associated with conflicts of interest from the perspective of an existing governance and leadership system, with the presumption that people who have conflicts already hold governing board positions or other roles of substantial authority for a nonprofit. I recognize the potential value of including such people on boards in spite of the conflicts of interest that come with their involvement. But I would be remiss if I did not at least introduce a strategic enhancement that may offer significant value.

This option involves the creation and effective use of advisory councils or advisory boards. These are entities that can have a real and

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substantive role in the governance process—a role that offers a way to effectively engage those whose relationships pose significant conflicts of interest, without subjecting the nonprofit to the threats that exist when people with persistent or frequent conflicts occupy governing board seats. There is no question that nonprofits must take care to involve only people whose commitment and loyalty lie with the organization, but the effective use of advisory entities enables organizations to capitalize on the best these people have to offer without falling prey to the downside of their potentially conflicting interests. For example, advisory entities can serve as a useful way to engage clients, constituents, resource providers, and other valuable stakeholders without exposing them to the fiduciary accountability of a governing board member. Advisory entities are effective when there is an authentic and substantive linkage to the governing board. (Warning: Do take care to ensure real engagement; this approach will backfire if it is—or is perceived to be—mere window dressing.)

Advisory entities have only the role(s) and authority they are assigned in the bylaws or policies approved by the governing board of the organization; and—unless the governing board has unwisely chosen to blur the boundaries of its authority and accountability by delegating formal authority to the advisory entity—neither the individuals on the advisory group nor the advisory group as a whole have the kind of fiduciary accountability required of the governing board and its members. (Note: There is no legal distinction between entities called “advisory boards” and those called “advisory councils”; advisory entities’ roles are whatever the organization’s governing board defines them to be.) There will still be a political dimension to creating such relationships, and this demands careful thought and planning. People named to an advisory entity carry the organization’s brand, and their behavior can affect the organization’s reputation. Nonetheless, creating one or more advisory entities can be a pragmatic way to control the legal risks while achieving a broader degree of inclusion and engagement in an organization’s governance process.

## Looking Ahead

The tensions of conflicts of interest abound in our sector, and they arise for logical—and often even beneficial—reasons. The problem is not that they exist—it's that we tend to misunderstand and inappropriately address them. Conflicts of interest pose risk, and they need to be assessed and managed from a risk leadership perspective. Even as it remains essential for nonprofits to demonstrate sensitivity to conditions that threaten their credibility and society’s trust, the challenges confronting governing boards and their leaders in today’s networked digital era demand that the sector employ an interest-based perspective to guide the design and practices of its governance and leadership systems.

Strong policy statements have value and meaning only when nonprofit leaders have insight into the nature of the conflicts of interest their organizations are likely to experience, and an understanding of what could be at stake. The information in this article is offered to help leaders of charitable nonprofit governing boards and others who are in positions of substantial organizational authority reflect on and discuss whether and in what ways these issues are likely to be relevant to their organizations, and encourage them to develop a thoughtful set of policies and procedures that reflect these realities and operating conditions. To ignore the issue of conflict of interest opens the door to a myriad of problems and complications that, irrespective of legality, have the potential to undermine nonprofits’ effectiveness and sustainability.

The era of nonprofits functioning relatively free of conflicts of interest is over, and the time has come for their leaders to embrace a deeper and more pragmatic perspective on conflict of interest and what it means for a new generation of effective ethical governance.

*This article is intended only to offer general information, and its contents and recommendations do not constitute legal advice. Boards and members with specific legal questions and concerns should consult legal counsel and the relevant regulatory authorities for definitive information and answers. An article such as this is intended*

to help leaders begin to consider the issues that the conscientious board and its members will need to explore in order to perform their roles effectively. This article highlights the laws and policies of the United States and several European nations. Laws and legal expectations vary from state to state, even though a large number of states in the United States have adopted nonprofit corporation laws that are based on the same model statute. Nonprofit laws vary even more substantially from nation to nation. It makes a significant difference where the organization was formed and incorporated, and where it operates its programs and services.

## NOTES

1. A complete list and explanation of the various types of nonprofits that are recognized by the U.S. Internal Revenue Service is provided on the IRS web page “Exempt Organization Types,” updated July 2019, [www.irs.gov/charities-non-profits/exempt-organization-types](http://www.irs.gov/charities-non-profits/exempt-organization-types).
2. I discuss the overall topic of risk and the need to look beyond risk management to embrace risk leadership in the following article: “From Risk Management to Risk Leadership: A Governance Conversation with David O. Renz,” *Nonprofit Quarterly* 24, no. 2 (Summer 2017): 14–23, [nonprofitquarterly.org/from-risk-management-to-risk-leadership-a-governance-conversation-with-david-o-renz/](http://nonprofitquarterly.org/from-risk-management-to-risk-leadership-a-governance-conversation-with-david-o-renz/).
3. “Form 1023: Purpose of Conflict of Interest Policy,” Internal Revenue Service, updated November 27, 2018, [www.irs.gov/charities-non-profits/form-1023-purpose-of-conflict-of-interest-policy](http://www.irs.gov/charities-non-profits/form-1023-purpose-of-conflict-of-interest-policy).
4. ICSA “Guidance note”: *Specimen conflict of interest policy, declaration form and register of interests for charity trustees* (London: ICSA: The Governance Institute, April 2014), 4.
5. Jan Masaoka, “Conflict of Interest . . . or Conflict of Loyalty?,” *Blue Avocado*, December 9, 2012, [blueavocado.org/board-of-directors/conflict-of-interest-or-conflict-of-loyalty/](http://blueavocado.org/board-of-directors/conflict-of-interest-or-conflict-of-loyalty/).
6. *Guidebook for Directors of Nonprofit Corporations*, 3rd ed. (Chicago: American Bar Association Press, 2012).
7. Adapted from insights shared in ICSA “Guidance note”: *Specimen conflict of interest policy*,

*declaration form and register of interests for charity trustees* (London: ICSA: The Governance Institute, July 2018).

8. Ibid.; And see Denise Copeland, “Conflicts of Interest,” Northern Ireland Council for Voluntary Action (NICVA), updated March 8, 2018, [www.nicva.org/resource/conflicts-interest](http://www.nicva.org/resource/conflicts-interest); *Guidance and good practice for Charity Trustees*, Scottish Charity Regulator (OSCR), updated December 2017, [www.oscr.org.uk/guidance-and-forms/guidance-and-good-practice-for-charity-trustees/](http://www.oscr.org.uk/guidance-and-forms/guidance-and-good-practice-for-charity-trustees/); Hubert Picarda, “Harmonising nonprofit law in the European Union: An English perspective and digest,” in *Comparative Corporate Governance of Non-Profit Organizations*, ed. Klaus J. Hopt and Thomas von Hippel (New York: Cambridge University Press, 2010), 170–96; and Evelyn Brody, “The Board of Nonprofit Organizations: Puzzling Through the Gaps Between Law and Practice,” *Fordham Law Review* 76, no. 2 (November 2007): 521–66.
9. *Leading with Intent: 2017 BoardSource Index of Nonprofit Board Practices* (Washington, DC: BoardSource, 2017).
10. The sample conflict-of-interest policy is Appendix A (pages 26–27) of the IRS publication *Instructions for Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, revised December 2017, [www.irs.gov/pub/irs-pdf/i1023.pdf](http://www.irs.gov/pub/irs-pdf/i1023.pdf).
11. Effective boards do not seek to avoid all risk—they assess the nature of the risk and determine whether the risk is relevant and appropriate to the situation. See Renz, “From Risk Management to Risk Leadership.”
12. See Copeland, “Conflicts of Interest”; ICSA “Guidance note”: *Specimen conflict of interest policy*; and “Form 1023: Purpose of Conflict of Interest Policy” (2018).
13. *Conflict or Duality of Interest Policy: For Directors, Officers, and Committee Members* (Bethesda, MD: Give an Hour, January 28, 2010), 1.
14. Ibid., 2.
15. Ibid.
16. Ibid.

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