



Ethical Practice

INTRODUCTION

COA's Ethical Practice standards are based on the assumption that good resource management drives excellence in agency performance and service delivery, and that good resource management cannot occur in an environment that lacks expectations for ethical practice.

The current discussion of ethical practice in business and legal literature, and best practice codes of corporate governance, parallels the current discussion about ethical practice in the nonprofit community. While debate continues about the feasibility of substituting federal and state regulations for strong voluntary support of non-profit ethical practice standards to prevent improper conduct, the risk of harm to an agency's reputation due to negative publicity remains a strong, practical deterrent to unethical practice. A practical, proactive stance to garnering the public trust goes beyond thinking about compliance with legal standards. The recommended standard can exceed what the law allows and be indicated by "what we are comfortable reading about our organization in the newspaper."

COA's standards assume the most effective approach to preventing improper conduct lies in a combination of factors rather than isolated policies and procedures. Research suggests that an organizational culture with a clear preference for trustworthiness in employees, public reactions and demands for accountability, and compliance with legal requirements, altogether, will work to encourage ethical practices.

Note: Please see Self-Paced_Training:_Ethical_Practice_(ETH) in the Tools Index for additional assistance with this standard.

PURPOSE: *The agency earns and sustains the public trust through honest, truthful, and responsible transactions, partnerships, and relationships with individuals, communities, providers, businesses, donors, and government entities.*



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PA-ETH 1: OPEN, TRANSPARENT OPERATIONS

The agency operates in an open and transparent manner in accordance with applicable legal requirements and uses assets exclusively and effectively to serve the purpose for which it has been created.

PA-ETH 1.01

The public has access to clear, timely, accurate information about the agency's programs, activities, service recipients, and finances.

Interpretation: Consumers of services, donors, volunteers, and public officials are among those for whom access to information should be assured.

PA-ETH 1.02

The agency accurately portrays its mission in all communications that contain such a representation.

PA-ETH 1.03

The agency eliminates internal and external barriers to achieving accountability throughout the agency, including unawareness of expectations and current information.

PA-ETH 1.04

When the network management entity, organizations with an ownership interest in the network, or members of the network's board of directors provide direct services to network clients, the network management entity discloses all ownership, partnership, or governance arrangements in all written material describing the network.

Related PA-ETH 2.04

Interpretation: In partner networks, which typically consist of a group of agencies that have joined together to form a new, separately incorporated network entity, the partner agencies often have a direct financial stake in the network, as well as a direct role in the network's governance, decision-making, and outcomes. In such cases partner agencies can be considered the network's "owners."

A network can use a simple statement such as "The XYZ Network is a partnership of provider agencies in Clark County" on letterhead or other written material, as long as the network makes more detailed written information, such as a list of all "owners" available upon request.

NA: The agency is not a network management entity.

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PA-ETH 2: CONFLICT OF INTEREST*

The agency prevents the enrichment of insiders and other abuses through the adoption and enforcement of a conflict of interest policy consistent with state laws and regulations.

Related PA-HR 1.03, PA-RPM 2.01

Interpretation: COA does not define “conflict of interest,” and expects an agency’s policy to do so.

The Panel on the Nonprofit Sector, Interim Report, Section 4, Conflict of Interest Policy Disclosure contains a useful description of the Conflict of Interest issue. References to the Internal Revenue Code note that the Code defines a conflict of interest and that: “All states mandate that directors and officers owe a duty of loyalty to the organization, and improperly benefiting from a transaction involving a conflict of interest more than likely involves a violation of the duty of loyalty. Some state statutes specifically penalize participation in transactions involving conflicts of interests unless the organization follows certain prescribed procedures.”

Note: Please see Conflict of Interest Policy and Procedure Template in the Announcements section of your My COA account for additional assistance with this standard.

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PA-ETH 2.01

A conflict of interest policy is tailored to the agency’s specific needs and characteristics, and:

- a. defines conflict of interest;
- b. identifies groups of individuals within the organization covered by the policy;
- c. addresses transactions between board members and the agency;
- d. addresses policy enforcement;
- e. provides a framework for evaluating situations that may constitute a conflict; and
- f. invests management with developing procedures that facilitate disclosure of information to prevent and manage potential and apparent conflicts of interest.

Interpretation: If an agency has a conflict of interest policy requiring signature of the designated authority, these signed forms should be available with the policy. The conflict of interest policy should ensure, among other things, that advisory members recuse themselves on matters where their objectivity could be compromised.

PA-ETH 2.02

Conflict of interest policies and procedures ensure that contracts and business arrangements serve the agency’s and service recipient’s best interests, not private interests.



PA-ETH 2.03

Advisory group members, personnel, and consultants who in any way have a financial interest in the agency's assets, business transactions, leases, or professional services:

- a. disclose this information; and
- b. do not participate in any discussion or vote taken with respect to such interests.

PA-ETH 2.04

The network has a process for ensuring that its activities are carried out in an even-handed, principled manner and in the interests of service recipients.

Related PA-ETH 1.03

Interpretation: It is essential that the network guard against any real or perceived conflict of interest in the manner in which it conducts its business, especially with regard to assessment, referral, and utilization management practices.

NA: The agency is not a network management entity.



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PA-ETH 3: FUNDRAISING

An agency that raises funds by individual solicitation from the general public conducts fundraising activities in an ethical, fiscally responsible manner.

Related PA-FIN 4, PA-RPM 2.01

Interpretation: This section is applicable to agencies that conduct fundraising through solicitation or receipt of money from private individuals, typically through means such as capital campaigns and contribution plans. This section is not applicable to agencies that apply for and/or receive private or public grants and contracts.

The agency reconciles its fundraising practices with prevailing ethical practices of the Association of Fundraising Professionals or similar national bodies.

NA: The agency does not conduct fundraising.

PA-ETH 3.01

The agency's management oversees fundraising activities and establishes written agreements with outside contractors or consultants.

PA-ETH 3.02

The agency:

- a. accurately describes the purpose for which solicitations are being made;
- b. spends funds for the purposes they were solicited, with the exception of reasonable costs for administration of the fundraising program;
- c. maintains accounting segregation for restricted funds; and
- d. respects donor confidentiality requests.

Interpretation: Conducting solicitations in an ethical manner also requires the agency to ensure that there are no material omissions, misstatements of fact, or misrepresentations regarding the use of funds.

Interpretation: Internal controls should address the handling and acknowledgement of contributions and respect for donor confidentiality requests. At a minimum, the agency should protect the confidentiality of donors who request anonymity by ensuring that such donors' names are not published or listed in newsletters, articles, annual reports, or other publicly available documents regarding the agency.

PA-ETH 3.03

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Costs and benefits of each fundraising activity are analyzed, taking into account factors that affect the reasonableness of fundraising costs in comparison to dollars raised.

Interpretation: Factors that affect reasonableness of fundraising costs to dollars raised include, and are not limited to: the differential costs of donor solicitation, donor renewal, large bequests, or donations that would obscure true fundraising costs. The agency must show that it carefully allocates fundraising costs and does not obscure them by allocation to program or educational purposes. The agency must collect and maintain data that support sound fund development decisions by its leadership.

PA-ETH 3.04

Upon request of a donor or funding source, the agency discloses descriptive and financial information for revenue-generating activities including fee-for-service programs, for-profit subsidiaries, and related or unrelated business ventures.

PA-ETH 3.05

The agency raises funds in accordance with applicable local, state, and federal requirements and registers all fundraising activities with the appropriate administrative authorities.



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PA-ETH 4: PROTECTION OF REPORTERS OF SUSPECTED MISCONDUCT*

The agency prohibits employment-related retaliation against employees and others affiliated with the agency who come forward with information about suspected misconduct or questionable practices, and provides an appropriate, confidential channel for reporting such information.

Interpretation: An agency establishing a policy to protect reporters of suspected misconduct can begin by adopting a code of conduct and ethical practice and developing reporting procedures. Procedures should include avoidance of baseless allegations, maintenance of anonymity, definitions, rights and responsibilities, and the role of supervisors, senior management, and governing body officers or committees.

Note: Please see Protection of Reporters of Suspected Misconduct (Whistleblower) Policy and Procedures Tool in the Announcements section of your My COA account for additional assistance with this standard.

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PA-ETH 5: PROFESSIONAL CONDUCT*

The agency conducts business and delivers services in an honest, ethical, objective manner and is guided in making decisions by professional responsibility as opposed to personal interests.

Note: Please see Conflict of Interest_Policy and Procedure Template in the Announcements section of your My COA account for additional assistance with this standard.

PA-ETH 5.01

Personnel know and follow the code of ethics of their respective professions.

PA-ETH 5.02

The agency prohibits:

- a. making or accepting payment or other consideration in exchange for referrals;
- b. steering, directing referrals to, or giving preference to clients easier or less costly to serve for specific agencies and practitioners within the agency;
- c. unfairly steering or directing referrals to, or "creaming" clients for specific network service provider agencies, such as network owners, or individual practitioners within the network, as applicable to networks; and
- d. steering or directing referrals to private practices in which personnel, consultants, or the immediate families of personnel and consultants are engaged.

Interpretation: It is permissible to include on referral lists personnel and consultants with private practices, or family members of personnel and consultants, but the agency may not actively direct service recipients to the practices of these individuals.

PA-ETH 5.03

The agency prohibits preferential treatment of members, community partners, advisory groups, personnel, or consultants in applying for and receiving the agency's services.

PA-ETH 5.04

An agency requires practitioners with a private practice on its premises to provide their clients with a written statement that clarifies the relationship between the private practitioner and the agency.

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Interpretation: As an example, the statement would make it known if a practitioner is also an employee of the agency, and clearly indicate that the client is not being served by the agency.

NA: Private practice is not permitted on the agency's premises.



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PA-ETH 6: RESEARCH PROTECTIONS

An agency that participates in or permits research involving service recipients establishes the right of individuals to refuse to participate without penalty and guarantees participants' confidentiality.

Interpretation: All research involving service recipients is conducted in accordance with applicable legal requirements. For purposes of PA ETH 6, research includes all forms of internal or external research involving service recipients, except internal program evaluation and outcomes research, and educational projects carried out by students and interns as part of their professional training.

Agencies serving children and youth who are wards of the state are advised to consult Code of Federal Regulations 45 CFR § 46.4.09 and 21 CFR § 50.56. These regulations specify who can participate in research and that an advocate must be appointed for each participating child.

NA: The agency does not permit research involving service recipients.

PA-ETH 6.01

The identity and privacy of participants is safeguarded in all phases of research conducted by, or with the cooperation of, the agency.

Interpretation: Statistical analyses, reports, and summaries are compiled and presented in a manner that masks the identity of the research participants. Case examples from individual case records must be prepared, prior to dissemination, in a manner that masks the individual's identity.

PA-ETH 6.02

The agency has a mechanism to review research proposals involving service recipients, such as a human subjects committee or an internal review board, that reports to the agency head or senior management.

Interpretation: The committee makes recommendations regarding the ethics of proposed or existing research, decides whether or not to approve research proposals, and monitors ongoing research activities.

PA-ETH 6.03

Research participants, or a parent or legal guardian, sign a consent form that includes:

- a. a statement that he or she voluntarily agrees to participate;
- b. a statement that the agency will continue to provide services whether or not he or she agrees to participate;
- c. an explanation of the nature and purpose of the research;

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- d. a clear description of possible risks or discomfort; and
- e. a guarantee of confidentiality.