

# Tool Kit

# Policy Management

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Policies serve many purposes in an association. They represent the wisdom of the board of directors in interpreting the governing documents and identifying the best methods to advance and protect the organization.

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Tool kit developed by Bob Harris, CAE. For samples and tips on association governance and management, visit [www.nonprofitcenter.com](http://www.nonprofitcenter.com).

## The Purpose of Policies

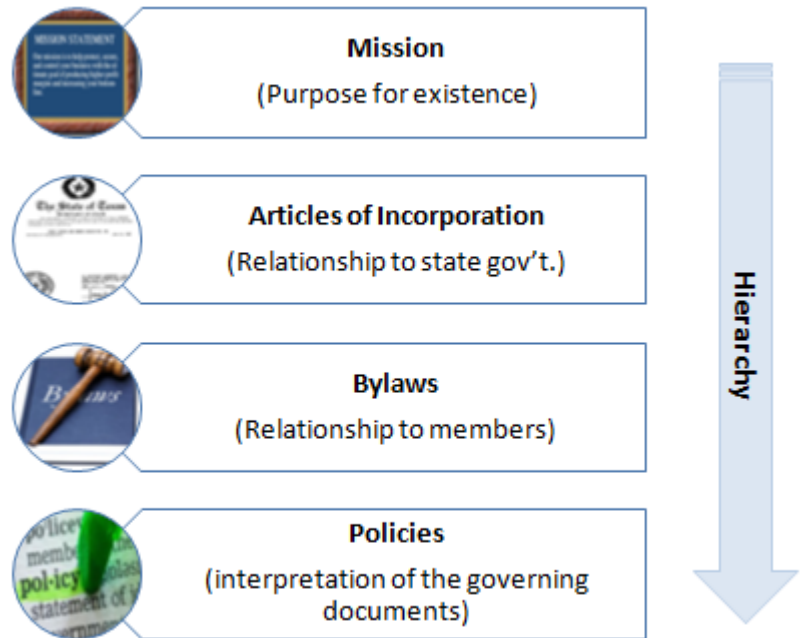
Policies guide an organization. They interpret the broader governing documents such as the articles of incorporation, bylaws and mission statement. They reflect the history of decisions by prior governing boards.

Without policies volunteer leaders make *assumptions* as to why certain practices exist. Because boards frequently transition, policies support continuity in governance. Where no policies exist, boards tend to rehash discussions that were held previously. A policy offers a solution and avoids redundant debate.

Policies may serve to protect an organization. In some cases a policy may be used as a defense. The fact that the policy exists may show that the board satisfied its duty of care and due diligence.

While policies are considered a component of the governing documents, they are easier to adopt and amend than bylaws. Generally bylaws require notice and possibly approval by the members whereas policies can be adopted by the board.

Policies clarify by giving authority to, or limiting actions. For example a committee may find they have not authority to expend funds on behalf of the board as communicated through policy.



## Definitions

**1 a** : wisdom in the management of affairs

**2 a** : a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions

**2 b** : a high-level overall plan embracing the general goals and acceptable procedures especially of a governmental body

## Policies are NOT Procedures

Procedures are administrative or managerial, a documentation of staff responsibilities (they should be of minimal interest to the board.)

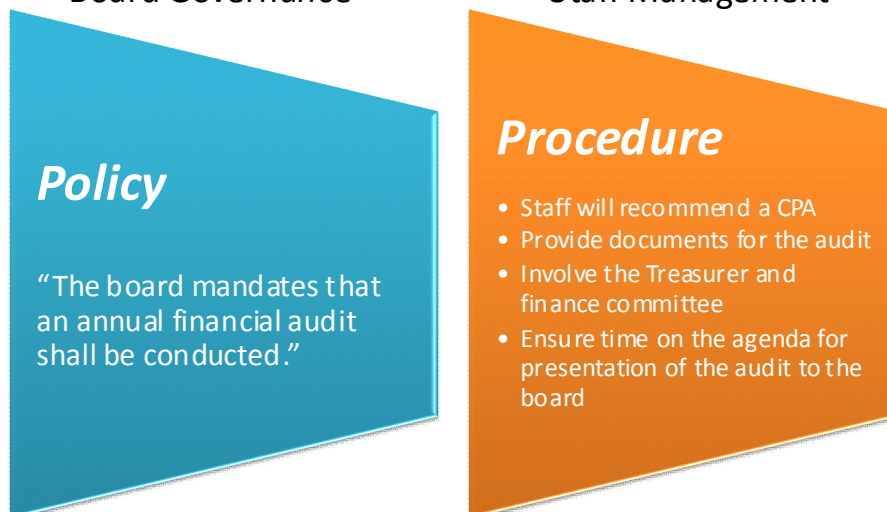
For example, the steps for processing a new member are managed by staff and should be documented for consistency. The board should be concerned with membership trends but not administrative operations of recruitment and renewal.

Procedures are often the result of policies. When the board adopts a policy, the staff should determine what steps are required to implement and maintain the policy. For instance, a board policy on the chairman's use of a corporate credit card should create *procedures* for submitting receipts on prescribed forms and reimbursement deadlines.

### ***Policies May Result in Procedures***

Board Governance

Staff Management



## Precautions

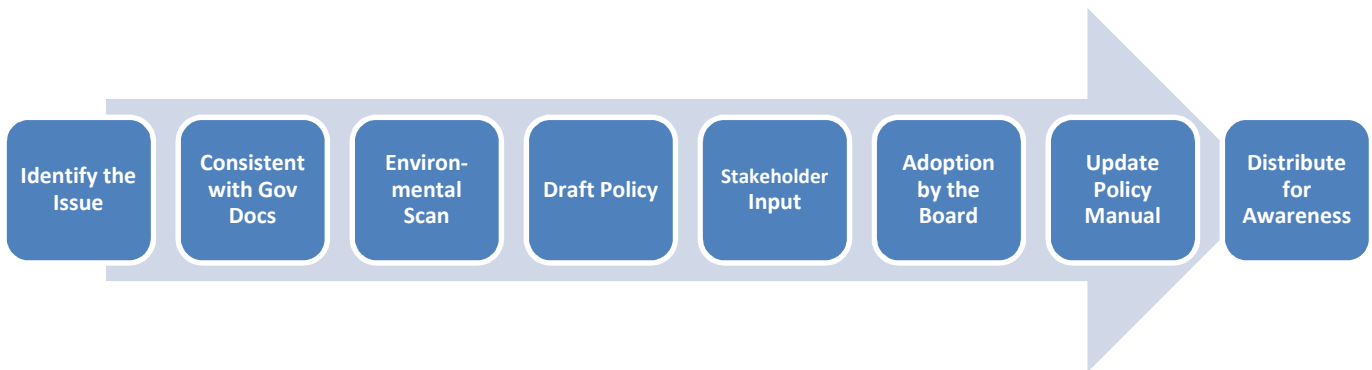
While policies have multiple purposes, there are precautions:

- Policies may not conflict with other governing documents or applicable laws.
- Policies are not amendments to the bylaws.
- Policies may exist but no *system* has been created to retrieve and reference.
- Policies should not be confused with personnel guidelines and/or administrative procedure.
- Policies may be vague, lengthy or unenforceable.
- Too many policies (many organizations govern effectively with 20 to 40 policies.)

- Believing that a policy exists when it has never officially been adopted.
- Policies are always written – not to be confused with precedents or practices.

## Policy Development

The flow chart depicts the development of policy. While not every policy will follow each step precisely, this represents a comprehensive approach.



- **Identify the Issue** – When issues and discussions at board table become repetitive, confusing or drawn-out, it may be a sign that a policy is needed. For example, an annual discussion of whether or not to have a financial audit could be guided by a previously adopted policy prescribing an audit every three years.
- **Consistent with Governing Documents** – Before recommending a policy, check the governing documents (bylaws and articles of incorporation<sup>1</sup>). If the governing documents are vague, then use policy adoption to clarify or interpret. Policies may not conflict with the governing documents.
- **Environmental Scan** – How do other organizations solve a similar issue? Are sample policies available to discuss with the board? An environmental scan can expedite the development of policy.
- **Draft the Policy** – The proposed policy or solution to the issue must be reduced writing. A committee, staff or consultant can draft a policy for board consideration. Clarity is essential.
- **Stakeholder Input** – Because policy has long-term impact, consider seeking member input. Rely on the legal, accounting and insurance counsel in the

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<sup>1</sup> Subordinate organizations may have a contractual relationship with a parent organization which will also serve as a source of governance guidance and which policy may not be adopted that conflict with the relationship.

development of policy statements.

- **Adoption by the Board** – It is the action of a motion to adopt the policy --- and recording it in the minutes --- that makes the policy official. All policies can be traced to their origin in the board minutes. (It is a good practice to annotate the date of adoption when entering a new policy in a manual so its origination can be referenced.)
- **Update Policy Manual** – Though a policy is recorded in the meeting minutes, it is important to transcribe it into a form for access by future leaders and staff. Maintain a manual, log or on-line document that records all of the organization's policies.
- **Distribute for Awareness** – Policies have little value if the board and future leaders are not aware of them. As policies are adopted, be sure to inform impacted parties.

## IRS Policies

Since 2008, the Internal Revenue Service (IRS) has focused on exempt organization governance by adding policy questions to Form 990, the annual information return<sup>2</sup>. Most organizations have adopted such polices so they can be answered to the affirmative.

- Financial Audit and Audit Committee
- Record Retention and Document Destruction
- Whistleblower
- Disclosure of Conflicts of Interest
- Public Records Disclosure
- Compensation of Senior Staff
- Maintaining Meeting Minutes

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<sup>2</sup> The policies questions are not part of IRS Code.

## Errors in Policy Adoption

Because most boards are composed of volunteers, they may not be specialists in understanding policy development. Here are frequent errors:

- **Amending the Bylaws** – Don't be swayed by the volunteer who says, "We need to get that in our bylaws." Let the bylaws remain a broad governing document; the policies should interpret the bylaws but not be included in them.
- **Conflicting Documents** - Policies may not conflict with existing governing documents. Policies interpret the bylaws and articles, not replace or supersede them.
- **Hyper Focus** – Don't let a board become mired in policy development. Issues will arise naturally that can be solved by policy. Rather than debate at the board table, ask staff, committee or counsel to bring a recommendation to the board.
- **Archival in the Minutes** – Some executives state, "We don't have a policy manual but I can tell you exactly when it was adopted." At least annually transcribe policies into a manual. Hint: When transferring the policy, reference the date of the meeting in which it was adopted or amended.
- **Environmental Scan** – One can discuss for hours a suggested policy, or search for policy samples from similar organizations. Conduct an environmental scan of other associations and use the resources at the American Society of Association Executives, the American Chamber of Commerce Executives, BoardSource, plus legal and accounting counsel.
- **Policy Mania** – A good number of policies in a nonprofit is 20 to 50. If the organization has 100s of statements, many of which may be out-of-date, conduct a sunset review. Appoint a task force to review and recommend policies to add or delete.
- **It Doesn't End with Policy** – Nearly every policy results in *procedures*. For instance, a policy on conflicts of interest will result in the need for procedures to educate the board annually, create and distribute a disclosure form, and to properly record conflicts in the minutes.

## Creating a Policy Manual

### From Minutes

In an organization with no policy manual it is possible to reconstruct the policies from prior minutes.

Take the last five years or so of board meeting minutes and search for motions that are policies (generally broad motions affecting governance and the future of the organization.) Enter those motions into a word processing program, adding the date of

the meeting minutes at the end of each policy. Create a table of contents and review the new manual with the board for approval.

## From Bylaws

Some organizations have inserted policies into their bylaws. The bylaws should remain broad to describe the relationship of members to the governance of the organization.

Review the bylaws for more precise policy statements (that do not belong.) Highlight the policies in the bylaws and transcribe them into a policy manual. Next take the amended bylaws to the board or membership for approval.

In both the minutes or bylaws retrieval method, determine what bylaws exist and what is missing.

## Policy Management

After the board has adopted the policy it is important to take steps to implement the policy.

- **Transcribe** – The new policy will be recorded in the minutes. Transcribe the policy into a manual, log or on-line resource cataloging all policies. Be certain the *system* for managing policies is sustainable.
- **Procedures** – Most policies result in administrative (staff) procedures. Study the policy and create a checklist to support implementation. For example, a policy on distributing the minutes within 30 days of meetings will require staff develop steps to draft, distribute and archive minutes in a timely manner.
- **Annotation** – Include the date of adoption and insert at the end of each policy. If a policy is amended include the date so the board meeting minutes can be referenced.
- **Sunset and Review** – From time to time a committee may want to review all policies to identify outdated and missing statements. Some organizations have a policy to review their comprehensive policy manual every five-years.

Policy and Procedures Linkage	
Policy Subject or Title	_____
Policy Statement	_____ _____ _____
Date of Adoption/Amendment _____	
<b>Procedures to Implement the Policy</b>	
	1.
	2.
	3.
	4.
	5.



## Common Policies

These are policies often found in not-for-profit, exempt organizations:

- Investments
- Financial Audit
- Record Retention
- Savings and Reserves
- Distribution of Meeting Minutes
- CEO Performance Evaluation
- CEO/Senior Staff Compensation
- Consent Agenda Usage
- Strategic Planning
- Logo Use
- Antitrust Avoidance
- Serving Liquor
- Authority to Represent/Speak for the Organization (Apparent Authority)
- Insurance Coverages
- Endorsements and Affinity Programs
- Committee Authority
- Original Works and Intellectual Property
- Listservs and Bulletin Boards
- Board Member Orientation
- Confidentiality
- Code of Conduct - Volunteers
- Member Information and Privacy Protocols
- Whistleblower
- Conflict of Interest
- Executive Sessions and Guests
- Public Records

## Appendix

The following represent policies often found in associations. Be sure to rely on the legal, accounting and insurance counsel in the development of policy statements.

### Antitrust Avoidance

Because of state and federal antitrust laws, certain topics are not appropriate for discussion at any board, committee or function of the organization. Many of our members are competitors and any action or agreement which may eliminate, restrict or impact competition in the marketplace could be a violation of antitrust laws. The penalties are severe for individuals and organizations.

Thus there shall be no discussions of any items that may appear to be anti competitive, including competitive practices, current or future prices, fees or charges, discount offerings, terms of service, profitability, credit terms or refusal to deal with other industry members or partners. The board supports free enterprise and competition and strictly adheres to antitrust avoidance guidelines.

### Savings Reserve

The organization shall maintain a reserve sufficient to ensure that operations can continue for at least six months should unexpected expenses arise or catastrophe occurs. The formula shall be an amount equal to six months of the annual operating budgeted income. The six-month savings may not be spent down without approval of 75 percent of the board. In any motion where reserves are expended, there shall be a plan to replace the expended funds within 36 months.

### Insurance Coverages

Because the board has a fiduciary duty to protect the organization and to minimize risks, at all times there shall be insurance coverages as follows:

- General Liability Insurance
- Directors and Officers Liability (D & O)
- Fiduciary Bond/Fidelity Bond
- Conference Cancellation Insurance

### Financial Audit

Annually the board of directors will appoint an audit task force (appointed from members of the finance committee and past presidents) that is responsible for selecting an independent Certified Public Accountant to conduct an audit<sup>3</sup> in accordance with

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<sup>3</sup> Audit, review or compilation.

Generally Accepted Auditing Standards. The executive director and audit task force will make records available to the auditor for the purpose of carrying out the audit.

The audit task force will transmit the final audit report and management letter to the board of directors for review and approval by a motion of the board. The audit report is not to be treated as a public record and may not be viewed without authorization.

At minimum, task force will consider the services and cost of the auditor by distributing a request-for-proposal (RFP) at least every five years.

## **Record Retention**

The organization shall adopt a record retention – document destruction schedule based upon the recommendation of a CPA or attorney and customized to reflect the needs, activities and documents of the organization. Staff shall have authority organize files and remove outdated documents. The policy shall apply to digital documents as well as hard copies. No documents shall be destroyed that reflect the history of the organization.

## **Meeting Minutes**

Minutes shall be recorded in writing for all meetings of the board of directors, including summary notes for executive sessions. Minutes shall be recorded in a manner as to reflect the actions, motions and statements of the board, without recording superfluous discussions. Committees with authority shall keep meeting minutes and provide them to the board or staff within 10 days of meeting.

Minutes shall be distributed to members of the board of directors within 30 days of the meeting. If any audio or video recording was made of the meeting, it shall be destroyed upon approval of the minutes. If distribution is by electronic means or posted to a website, the file shall be in the format of a PDF to protect against unauthorized editing of a word processor document.

## **CEO Performance Evaluation**

A periodic performance evaluation (not more than annually, without cause) of the executive director shall be a responsibility of the chairman of the board or a designated subgroup of the board as appointed by the chairman. The performance evaluation tool should reflect the unique aspects of managing a not-for-profit organization and the advancement of the organization's mission and strategic plan.

While the entire board may be asked to offer input, the entire board will not make up the performance evaluation committee or task force. The board's chairman may conduct the performance evaluation independently so long as a final report is provided to the executive committee and/or board of directors, and the executive director. All discussions, documents and outcomes shall remain confidential.

## Consent Agenda

The chairman, in consultation with the board of directors, may place items in a consent agenda. This requires that all reports be submitted in writing 14 days prior to the board meeting.

By using a consent agenda, the board agrees to the consideration of these items as a group under one motion and without further discussion so that more substantive business can be handled. Consent items are those which usually do not require discussion or explanation prior to board action, are non-controversial and/or similar in content, or are those items which have already been discussed and/or explained and do not require further discussion or explanation. Such agenda items might include ministerial tasks such as, but not limited to, the approval of the agenda, approval of previous minutes, approval of bills, approval of reports, etc. These items might also include similar groups of decisions such as, but not limited to, approval of staff contracts, approval of minutes, finances and reports.

A director may request the removal of items from the consent agenda by making a request of the chairman. A request is timely if made prior to the vote on the consent agenda. The request does not require a second or a vote by the board. An item removed from the consent agenda will then be discussed and acted on separately immediately following the consideration of the consent agenda or in an appropriate place on the agenda (i.e. old business or new business.)

## Executive Session of the Board

An executive session is defined as when the board asks non-board members to leave and goes into a closed door session. To avoid general discussions without staff or counsel present, the board will identify the topic(s) prior to going into executive session. Some reference will be made to the topic either before entering executive session or in a report following the session; so that it is clear the board only talked germane topics. Guests must understand that the board has authority to go into executive session when it is in the best interests of the organization and may be asked to leave.

## Logo Usage

Use of the organization's distinctive logo is a benefit of membership. Members are encouraged to promote membership in the organization and what it stands for by using the *prescribed* logo on forms, business cards, stationery and in advertisements.

The logo, and any marks associated with the organization are the property of the organization and are protected by state and federal laws. Use of the logo is contingent upon agreeing to the following licensing provisions.

- The logo is the property of the organization;

- Members in good standing may use the logo on stationery and in advertising to indicate membership;
- The logo of the organization may not be used by a member without the words “Member” incorporated into the design;
- Members may not use the logo to state or imply that the organization has endorsed their company or their company's products or services;
- Members agree not to place the logo on their products;
- Members will indemnify and hold the organization harmless for any damages, including attorney's fees, incurred by the member as a result of use of the logo;
- Members agree to cease using the logo upon request of the board of directors or staff; and
- Members agree to pay the organization for all costs and attorney's fees incurred by the organization in any action against a member to enforce the terms of the license agreement.

## Liquor Service

If liquor is served at a function, association staff will not purchase or pour the liquor, preferring that an insured and trained bartender be utilized as provided by a caterer, hotel, etc. The caterer should have insurance and indemnify and hold the organization harmless with respect to claims, damages, losses, etc.

When advisable, host liquor liability insurance will be purchased to protect the organization. Whenever liquor is served it will be carefully accounted for through the use of cash bar, drink tickets, and/or limited hours and availability (as opposed to an open bar.) If driving is involved after a hosted event where liquor is served, the organization will arrange for professional transportation options.

## Board Confidentiality

Documents provided to the board are provided for the purpose of governance. They are to be considered confidential. In most cases the only public records in the organization are the IRS Letter of Determination, IRS Application for Exempt Status, and IRS Information Return (Form 990.)

Board members must respect that records, discussions and decisions are confidential and should be treated as such. A board member that breaches the confidential nature of contracts, member discussions, and contract issues shall submit his or her resignation to the president of the board.

## **Whistleblower**

The board of directors remains open to receiving information that may bring awareness to an issue or problem occurring amongst leadership, chapters and/or staff. In that light, no person shall take any action of retaliation against any person, including interference with employment, for providing accurate information to the board or to legal authorities relating to a problem or concern in the association. If whistleblower information is reported to the board, a committee will be convened, with legal counsel, to evaluate the issue and make a recommendation to the board of directors.

## **Public Records**

The board of directors follows all laws regarding access to public records. To that end, the association ensures access to IRS related public records to anybody who requests. Reasonable copying costs may be charged. Other records are not considered public. Members in good standing may request documents and the board will consider each request and the nature with how they will be shared while maintaining the integrity of the corporation.

## **Guests Attending Board Meetings**

Guests are not invited to convened meetings of the board without approval of the chief elected officer in advance. If a guest, including members in good standing, attends board meetings, they will be advised that they may not speak nor sit at the board table. They will be recognized or called upon at the appropriate time on the agenda. If the board decides to go into executive session, guests will be asked to leave.

## **Authority of Committees**

Committees serve at the will of the board. No committee has authority to expend funds, contract or speak for the association without specific approval from the chief elected officer or the executive director.

## **Diversity**

In principal and in practice, we value and seek diverse and inclusive participation within the profession. We promote involvement and access to involvement and leadership opportunity to all members regardless of race, ethnicity, gender, religion, age, sexual orientation, nationality, or disability. We will continue to provide leadership and commit time and resources to advance this policy statement.

## **Listservs and Bulletin Boards**

The association provides access to listservs and bulletin boards for the exchange of information. No postings shall be made that may be considered self serving or injurious to an organization or person's reputation. No copyrighted materials may be posted. No statements that might violate antitrust laws may be made. The organization

reserves the right to refuse access to the listservs and bulletin boards and may remove postings at any time.

### **CEO Compensation**

The chief executive officer and senior staff shall be compensated fairly based on their experience, job description and comparability data demonstrating fair market value. A subcommittee of the board will review the compensation and comparability data and maintain confidentiality of salaries.

### **Conflicts of Interest**

The board is advised to avoid any conflicts of interest, whether real or perceived. Potential conflicts must be disclosed at least annually, and for often as they arise for volunteer leaders and senior staff.

### **Strategic Planning**

The board will govern strategically, with a focus on advancing the mission and long-term thinking to benefit the membership (profession or industry.) Discussions at the board table will be framed by a strategic plan adopted or amended every three to five year. Board members are responsible for understanding and updating the plan.

## Operating Framework for an Association

# Operating Framework – Business Model

There are more than 1 million nonprofit organizations in the U.S. Development and maintenance of an operating framework promotes efficiency, creates systems, reduces risk and sets up training manuals. Systems remove uncertainty and discretion – promoting excellence in service and ensuring sustainability.



Footnote 1 – Indication of primary and secondary refers to the order in which the documents are likely to be created; it does not mean that secondary documents are less important than primary or legal documents. \*Indicates recommended operating manuals.

# Indicates public record documents; IRS help-line 877 829 5500.

Bob Harris, CAE, is the creator of the Association Self-Audit Process Manual® to improve performance and reduce risk. It offers seminars, strategic planning, board training and association audits. Many of the referenced documents and descriptions herein are available free at [www.nonprofitcenter.com](http://www.nonprofitcenter.com).

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