

# Institutional Integrity Self-Assessment

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ONCE, NOT-FOR-PROFIT ORGANIZATIONS ENJOYED THE PUBLIC'S presumption of doing good works for noble purposes. Now, a variety of outsiders led by Congressional committees, the IRS, state attorneys general, local taxing agencies, plaintiffs' attorneys, the press, and informed consumers are questioning the conduct and motives of charitable organizations. Alleged and widely publicized abuses, from overcharging poor patients to overpaying executives, by a few tax-exempt organizations have fueled the fires of external skepticism.

THE NEW REALITY IS that tax-exempt organizations of all stripes must be able to demonstrate their public benefit, stewardship of resources, and ethical conduct to more demanding regulators and stakeholders. The Governance Institute recently published a white paper entitled *Emerging Standards for Institutional Integrity: A Tipping Point for Charitable Organizations*. In the white paper, we argue that not-for-profit organizations generally, and hospitals and health systems specifically, face a new era of accountability and transparency.

We do not mean to suggest that the "sky is falling," or that charitable hospitals and health systems must reform their evil ways. To the contrary, we believe most not-for-profit hospitals and health systems do an admirable job serving their communities under severe economic pressures and providing a costly safety net for the uninsured. Further, our experiences suggest most not-for-profit hospitals seek to comply with current laws and regulations governing the board's ethical conduct and discharge of its fiduciary duties.

However, as the white paper describes, two things are happening:

**1. Expectations are rising.** A tipping point is at hand in terms of public expectations for institutional integrity. In the future, hospitals will face increased requirements to measure and report their community benefit activities according to industry-standardized definitions, and to demonstrate they are worthy of tax-exempt status. Some provisions of Sarbanes-Oxley regarding fiscal integrity, disclosure, and certification of financial statements may be applied to the charitable sector. Already, not-for-profits are affected by the backwash of corporate governance rules, in the form of higher expectations for board independence and conflict-of-interest policies, as well as stiffer rules for oversight of executive pay and benefits. Nascent requirements to disclose quality scores, patient

safety, and pricing to consumers will unquestionably become more explicit.

**2. Boards are looking for direction.** In surveys of members, The Governance Institute has found wide variability and some confusion over how boards should respond to the pressures for increased institutional integrity. For instance, some hospitals report their community benefit activities in detail and publicize their financial assistance policies while others are less open. Some boards ensure that the full board understands and approves the process for establishing executive compensation, while others keep information about executive pay cloistered within a small compensation committee. Some boards justify numerous conflicts of interest and don't even make board members aware of existing conflicts, while others have toughened disclosure, transparency, and enforcement procedures.

In this special section, we seek to assist boards by recommending the 72 practices we presented in the white paper to meet current and future expectations. These practices do not constitute a one-size-fits-all template. Rather, they represent a starting point for each board's discussion of institutional integrity. For this reason, the practices are offered in the form of self-assessment checklists, which we describe how to use below. The checklists cover these areas:

- Community benefit
- Financial integrity, transparency, and corporate compliance
- Oversight of executive compensation
- Conflicts of interest and director independence
- Transparency of quality, safety, customer service, and pricing information
- Governance practices and culture

## Using the Checklists as a Tool for Assessment and Improvement

Here is a step-by-step description of how to use the white paper as a core resource material for a board assessment process focused on preparedness for the new era of institutional integrity.

**1. Distribute the white paper and self-assessment checklists to every board member and to senior executives who work with the board, as well as to the corporate compliance officer and general counsel.**

**2. Assign to the governance or audit committee responsibility for planning a retreat or board discussion.** The committee should develop objectives for an Institutional Integrity Self-Assessment Process. The objectives will differ depending on how much external pressure the organization faces. Some organizations are under “high pressure” (e.g., because of an IRS compliance check, an activist attorney general, or hyper-critical local newspaper) to be proactive on institutional integrity. Others are in a “low pressure” environment and can adopt more of a “watchful waiting” posture.

Here are sample objectives for a self-assessment process focused on institutional integrity:

- Review current national and local trends in institutional integrity.
- Assess the degree of external scrutiny on institutional integrity facing the organization.
- Assess the current practices of the organization and the board, using the Institutional Integrity Self-Assessment Checklists.
- Identify opportunities for improvement.
- Agree on a post-retreat action plan on institutional integrity.

The committee should set a date for the retreat far enough in advance for members to reserve it on their calendars, and should determine if an outside speaker or facilitator should be engaged.

**3. Assess the organization and the board using the Institutional Integrity Self-Assessment Checklists.** The committee should decide how it wants to assess current policies and practices. Here are several possibilities, which are not mutually exclusive:

- Have each board member complete the Institutional Integrity Self-Assessment Checklists and compile the results in a report for discussion at the retreat.
- Have board members discuss pertinent aspects of institutional integrity at the retreat, using the checklists as a discussion stimulator rather than as a pre-retreat survey.
- Have the governance or audit committee, in consultation with legal counsel, prepare a candid, written assessment of the board’s institutional integrity policies and practices for discussion at the retreat.
- Have an independent governance consultant review the organization’s policies and practices and prepare an analysis for presentation at the retreat.

**4. Conduct a board retreat on institutional integrity.** Determine how much time the board will devote to discussion of institutional integrity. Options include a half-day retreat, full day-retreat, or a 3- to 4-hour session as part of a longer board retreat. Some boards may want to begin with an educational presentation and discussion at a board meeting or mini-retreat. A typical retreat agenda is shown below.

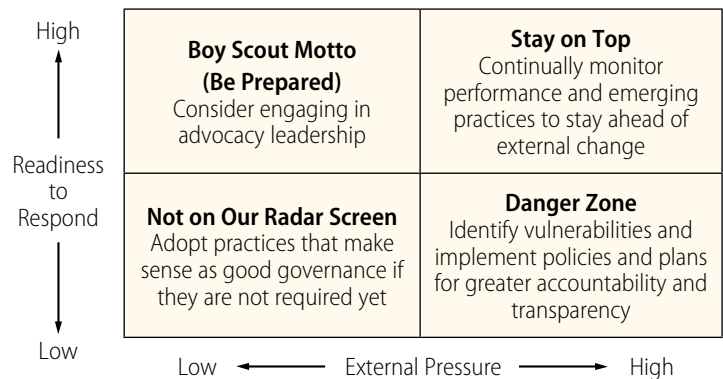
### Sample Half-Day Retreat Agenda

- 8:00 A.M. Welcome, *Board Chairperson*
- 8:15 A.M. National Trends in Institutional Integrity, *Guest Speaker/Facilitator*
- 9:30 A.M. Break
- 9:45 A.M. Presentation of Self-Assessment Questionnaire Results  
Discussion Using Risk/Readiness Matrix
- 11:00 A.M. Identification of Priority Areas for Improvement
- 12:00 P.M. Development of Post-Retreat Action Plan, including assignments of responsibility and timelines
- 12:30 P.M. Adjourn

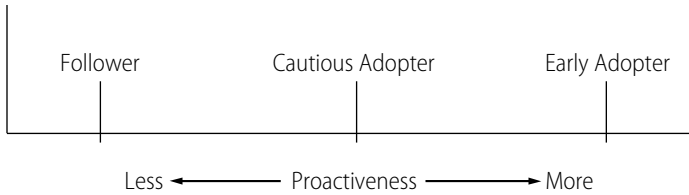
In advance of the retreat, disseminate the assessment survey results and any other analysis that has been prepared. To refresh everyone’s memory about existing activities, also distribute the board’s conflict-of-interest policy, latest Form 990 report, latest community benefit report, policy on oversight of executive compensation, and other pertinent documents.

An overarching question facing charitable organizations is how much time and effort to invest in what could be costly revisions of current policies and practices to comply with future demands. To answer that question, a board needs to examine how much pressure (or “risk”) it faces now and expects in the future on institutional integrity, and its “readiness” to respond to both current and anticipated requirements. The white paper includes a “risk and readiness” matrix that can serve as a framework for discussion at the retreat and development of a plan for improvements. The board can decide whether, based on the risk/readiness assessment, it wants to be a follower, cautious adopter, or early adopter.

### Risk/Readiness to Respond Analysis



### Charting a Strategy



**5. Prepare and implement a follow-up action plan.** After the retreat, create a detailed action plan, including accountability assignments, completion dates, and cost estimates (if any). We believe the most important potential areas for board action include the following:

- Conduct a rigorous review of conflict-of-interest policies and procedures, including:
  - Adopting “disabling guidelines” that spell out when a person’s conflicts are so great that he/she should not serve on the board.
  - Creating a measurable definition for an “independent” director.
  - Ensuring conflicts are reviewed by a committee of independent directors.
  - Making the entire process transparent among all directors.
- Revisit the adequacy and transparency of executive compensation oversight. Aspire to practices that meet the IRS “rebuttable presumption of reasonableness” standards.

- Use emerging industry standards to define, measure, and set goals for community benefit that, if applicable, meet the “value of tax exemption” test. Make sure the organization is doing a good job of telling its story to the community.
- Ensure that the full board understands the Form 990 information that is filed with the IRS and that it meets the highest standards for completeness and accuracy.
- Assess the organization’s public transparency policy and initiatives for communicating its quality, safety, prices, and governance policies to the public.
- Compare the board’s structures, composition, policies, and procedures with recommended practices and adopt enhancements. Treat board evaluation, including individual director evaluation, as a priority to continuously improve board performance.

Use the Institutional Integrity Self-Assessment Checklists on the following pages to determine where your board is performing in this area and subsequent actions necessary.

The white paper on which this special section is based, *Emerging Standards for Institutional Integrity: A Tipping Point for Charitable Organizations*, is available by calling (877) 712-8778 or visiting [www.governanceinstitute.com](http://www.governanceinstitute.com). The Governance Institute thanks Governance Advisors Barry Bader, president, Bader & Associates, Edward Kazemek, chairman & CEO, ACCORD LIMITED, and Roger Witalis, FACHE, President, WITALIS & Company, for submitting this special section.

### Sample Institutional Integrity Action Plan

Action	Assigned to	Deadline
1. Revise conflict-of-interest policies and procedures; develop disabling guidelines and definition of an independent director.	Governance committee and general counsel	1st quarter
2. Conduct board education session on compensation committee’s process for establishing executive pay and benefits.	Compensation committee chair and outside consultant	1st quarter
3. Conduct educational session for board on Form 990.	General counsel	Next board meeting
4. Assess charity care policy and analyze current community benefit report for transparency and sufficiency of effort, and make report and recommendations to the board.	Ad hoc committee on community benefit	2nd quarter
5. Develop a board policy on transparency of information on quality, patient safety, and pricing, and assess current efforts against policy.	Senior management to draft policy and recommend it to board prior to discussion	3rd quarter

**Table 1: Financial Integrity and Transparency Practices Self-Assessment**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board has created an audit committee comprised entirely of independent directors.					
2. The chair or at least one member of the audit committee is a financial expert, ideally with an auditing background.					
3. The audit committee (or other board committee) oversees the external financial audit process, the adequacy of internal control systems, the internal audit function, and if it exists, an enterprise risk management program.					
4. The audit committee's responsibilities are defined in a written charter that the full board updates and approves annually.					
5. The board authorizes the audit committee to engage the outside auditors and if necessary other independent advisers, or to recommend hiring or termination to the board, and to approve the terms of the outside auditor's or other advisors' engagements.					
6. The audit committee meets at least annually with the external auditor, without other management present for a candid discussion of the audit report findings.					
7. The appropriate board committee meets at least annually with the internal auditor, legal counsel, and corporate compliance officer, respectively.					
8. The audit committee recommends, for board approval, policies to provide for the independence of the audit process, including:					
• A policy limiting non-audit services provided by the outside auditor to the organization that could be perceived to compromise the auditor's independence					
• Policies addressing audit partner rotation, proper accounting treatment of material correcting adjustments, off-balance sheet arrangements, and related party transactions					
• Policies prohibiting executive interference with the audit process					
9. The board has approved a code of ethics or code of conduct for directors and officers, including a procedure to protect employees who report ethics violations or concerns to the committee.					
10. The board has adopted a policy requiring it, or a board committee with delegated authority, to approve loans, credit extensions, and incentive compensation arrangements extended to directors and officers of the organization.					
11. The audit committee or another board committee oversees a process to ensure compliance of fund raising practices and the use of charitable funds with governmental rules.					
12. The board has adopted and monitors a policy requiring that financial information is prepared in accordance with generally accepted accounting principles.					

**Table 2: Corporate Compliance Practices Self-Assessment**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board is educated about its corporate compliance responsibilities, including the guidelines set by the Office of the Inspector General, U.S. Department of Health and Human Services, for compliance with Medicare and Medicaid payment regulations.					
2. The board has developed and communicated its philosophy and core values on matters of corporate ethics and the expectation that the organization's culture will be based on these principles.					
3. The board is knowledgeable about the organization's compliance plan and its systems for detecting, reporting, and addressing potential violations of law and payment regulations.					
4. The board has established a mechanism composed of independent directors, such as a board compliance committee or an audit and compliance committee, to provide oversight of the implementation and effectiveness of the compliance plan and to perform any other functions delegated by the board.					
5. The compliance committee approves the annual corporate compliance plan, including designation of high risk areas to be audited (e.g., laboratory billing, compliance with HIPAA requirements, information security).					
6. The compliance committee assures that a senior member of management has direct, overall responsibility for the compliance function (i.e., corporate compliance officer) and reports to the compliance committee as well as within the senior management structure.					
7. The compliance committee meets with the corporate compliance officer at least annually without other management present. The compliance committee also has access to general counsel and internal auditors.					
8. The compliance committee ensures that document retention policies and procedures are in place and being followed.					
9. The compliance committee monitors "whistleblower" protections for employees who disclose possible legal violations.					
10. The compliance committee makes an annual report to the full board to keep it apprised of compliance matters affecting the corporation.					

**Table 3: Executive Compensation Practices Self-Assessment**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board is educated about its executive compensation responsibilities, including IRS Section 4958.					
2. The board has created a committee comprised of independent directors to oversee executive compensation, and has established a policy specifying its authority and any decisions that require approval/ratification by the board.					
3. The board approves the charter of the executive compensation committee annually, so that all members are aware of how the committee engages in its work.					
4. The CEO is a non-voting member or attends meetings of the compensation committee to participate in deliberations concerning the senior team, but is not present when his or her compensation is discussed, except to hear the results of the committee's evaluation of the CEO.					
5. This committee engages an independent compensation firm to provide education, advice, and comparability data. The committee also has access to legal counsel and other experts as it deems necessary.					
6. The compensation committee meets periodically in executive session (that is, outside the presence of the chief executive officer) with its independent advisors.					
7. The committee is not a rubber stamp—it is informed and engaged, raising tough questions and exercising rigorous oversight.					
8. The committee recommends to the full board for approval a compensation philosophy and incentive plan that provide a framework for determining executives' base pay, incentives, and benefits.					
9. All elements of the compensation program are fully disclosed to the committee, including the maximum cost of each compensation element.					
10. The compensation committee seeks independent assurances that deferred compensation arrangements, other benefit programs, and any "executive perks" such as automobiles, spouse travel reimbursement, and country club memberships, are consistent with current IRS rules.					
11. The full board reviews and approves the committee's recommendations.					
12. The compensation committee considers the how the public and public officials may interpret its compensation decisions in the context of its community benefit mission.					

**Table 4: Conflict of Interest/Director Independence Practices Self-Assessment**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board's conflict-of-interest policy, procedures, and disclosure are reviewed and updated annually, with the advice of legal counsel.					
2. The conflict-of-interest policy and procedures include the following practices: <ul style="list-style-type: none"> <li>• Identifies all individuals covered by the policy, including physician directors</li> <li>• Defines "actual" and "potential" conflicts of interest, with examples, to ensure that board members are clear about the criteria for reporting current and potential business matters involving the organization</li> <li>• Treats both economic and non-economic benefits as potential conflicts</li> <li>• Spells out the duty to fully disclose conflicts both annually and immediately if a new conflict arises</li> <li>• Includes a definition of an "independent" board member with measurable standards for making the determination</li> <li>• Contains "disabling guidelines" that define specific criteria for when a board member's material conflict of interest is so great that he or she should no longer serve on the board</li> <li>• Spells out that intentionally or repeatedly failing to adhere to the conflict-of-interest policy is grounds for removal from the board</li> <li>• Provides a safe procedure for any board member, including the CEO, to raise questions concerning an actual or potential conflict situation they are aware of that is not reported on the disclosure forms</li> </ul>					
3. At least a majority of the board members meet the board's definition for "independent" persons.					
4. The composition of the audit and corporate compliance committee is restricted to independent directors, as is the executive compensation committee.					
5. Physicians nominated to serve on the board with a vote receive a thorough briefing from legal counsel on their fiduciary responsibilities, especially with regard to the duty of loyalty, the conflict-of-interest policy and procedures, and the reason why, as "inside" directors, they should not serve on the executive compensation committee.					
6. The board or a board committee composed of disinterested or independent directors (e.g., audit and compliance committee) reviews all disclosures and any other reported instances of a potential conflict of interest, and makes a determination as to the appropriate course of action in each case.					
7. The board requires that all directors receive a summary of members' disclosure forms and any action taken to address the reported conflicts.					
8. The board is educated on Form 990, including the requirements for disclosure of conflicts of interest.					
9. The board has adopted a policy concerning Form 990 reporting and its use as a mechanism for being more transparent with stakeholders concerning its activities					
10. The board approves and monitors a strict confidentiality policy to safeguard proprietary information, corporate assets and business interests.					
11. The board requires management to include governance information on the corporate Web site to facilitate easy public access to the names of board and committee members, the bylaws, structural relationships among legal entities, Form 990, and key board policies, e.g., audit oversight, conflict of interest, management oversight, quality oversight, and so forth.					
12. The board or a board committee conducts a thorough, annual review of the board's policies and procedures concerning conflict of interest and independence of board members.					



**Table 5: Transparency Practices Self-Assessment**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board is educated about current trends and external requirements for information transparency, including Web sites that provide information to consumers.					
2. The board has approved a policy declaring its commitment to transparency and explaining to the public in understandable terms its performance on measures of quality, safety, and customer service; a reasonable estimate of the prices patients can expect to pay for common services; and the organization's policies and programs for financial assistance.					
3. The board periodically reviews a community perceptions survey and other assessments of the effectiveness of the hospital's initiatives to inform the public about its services, quality, safety, customer service, and prices.					
4. The board has created an effective mechanism, such as a board quality committee, to oversee quality improvement activities.					
5. The committee regularly reviews publicly available information about the organization's quality, safety, customer service and pricing both on its Web site and on Web sites of other organizations, including JCAHO and CMS.					

**Table 6: Self-Assessment of Community Benefit Practices**

To what extent does your board follow the suggested practices below?

Practices	Completely	Partially	A little/ not at all	Don't know	N/A
1. The board is educated on evolving standards for community benefit and the organization's activities.					
2. The board has adopted a policy on community benefit, including a statement of its commitment, a definition, and a process for board oversight.					
3. The board periodically reviews and, if necessary, revises the organization's mission statement.					
4. The board considers stakeholders' needs during strategic planning discussions, including how proposed programs and transactions would benefit the mission.					
5. The board reviews a community health needs assessment every few years and ensures its findings are incorporated into the organization's strategic planning and community benefit activities.					
6. The board approves an annual or multi-year community benefit plan, including measurable goals.					
7. The board requires management to provide a dashboard-style report to facilitate setting goals and monitoring performance for community benefit.					
8. The board assesses community benefit performance against goals, including whether activities exceed the value of the organization's tax exemption.					
9. The board formally reviews a written assessment of the organization's community benefit or mission-focused activities at least annually.					
10. The board reviews the organization's communications strategy to ensure its community benefits are effectively conveyed to patients, news media, public officials, regulators, opinion leaders, and the general public.					
11. The board documents its discussions of community benefit activities in its minutes.					