PUBLIC TRUST OR PUBLIC TROUGH?

The Ethical Crisis Facing Nonprofit, Tax-Exempt Cultural Institutions in America

by Patrick Overton, Ph.D.

The following was presented at the Fourth National Conference on Ethics In America held in Long Beach, California, February 16-19, 1993. The theme of the Conference was "Building Ethical Organizations — Cultivating Ethical People: Bringing the Practical into Practice." Because the paper addresses the broad scope of nonprofit organizations, the author has added an addendum at the end of the article to focus on arts agencies.

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Introduction

When we talk about ethics, we are talking indirectly about values, for ethics are systems of principles derived from a specific value orientation. Therefore, as we explore ways to cultivate ethical organizations, I propose two ideas for consideration. First, it is necessary to focus on organizational values, since you cannot have an ethical organization if its actions are inconsistent with its values. Second, it is important to pay particular attention to the values of those cultural organizations that are among the primary sources of identifying, conserving, celebrating, and transmitting the cultural values of our society. I refer to these as "value teaching" institutions, and I include in this category the cultural institutions of religion, higher education, and arts/humanities organizations. These all fit into the unique category of nonprofit, tax-exempt organizations. Combined, these institutions have an enormous impact on the development of values in our society. Yet, when one examines them closely, it is clear that these "value-teaching" institutions are facing an ethical crisis of their own. The thesis of this paper is that this ethical crisis is inherent in the tax-exempt, nonprofit status of these organizations and threatens their very existence.

In this short paper, I will review the nature of the nonprofit, tax exempt organization; examine the rise of abuse of public funding by some of these organizations; explore, in detail, the ethical crisis I believe is inherent in the 501 (c) (3) nonprofit, tax-exempt structure; and finally, introduce specific "practice strategies" to resolve this ethical crisis and strengthen the ability of these institutions to fulfill their "value teaching" role in our society.

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I. The Nonprofit, Tax-Exempt Organization

As our society moves steadily toward a service-based economy, it is likely nonprofit, tax-exempt organizations will increase in number and social importance. These organizations have unique structures, are volunteer based, and most important of all, are tax-exempt. The Internal Revenue Service 501 (c) (3) tax-exemption category is a much sought after and coveted designation. It has three very important financial benefits for the organizations that receive it. First, they do not pay taxes on anything they make as income as long as it is within IRS regulations. Second, people can make a cash or in-kind donation to these organizations and have that gift be tax-deductible. And finally, they are eligible for the vast array of public funding programs and grants made available by the federal government to organizations with these designations. When you combine these tax-exempt benefits with the availability of federal programs and grant monies, there is an enormous advantage to being tax-exempt. Few tax-exempt organizations understand the full range of benefits they receive. In fact, there are many who maintain they are not accountable to IRS regulations because they do not seek public Federal program or grant monies. What they fail to recognize is the tax-exemption benefits are, in effect, indirect public funding. They also fail to realize that with this privilege comes public accountability.

The non-profit sector is undergoing enormous change. An article in the August 11, 1992, issue of the *Chronicle of Philanthropy* indicated there are questions being asked about nonprofits by government and nonprofit officials alike. These questions include whether there are too many of them, and whether or not they have become more interested in their own survival than in meeting people's needs. I would add two more to the list. First, are some nonprofit organizations abusing the public trust by viewing their tax exemption as a ticket to the public funding trough? Second, are some nonprofit groups creating programs simply to get public funding, risking a contradiction of their organizational values in order to survive? My answer to all of these questions is a resounding "yes" and I believe this is the source of the ethical crisis that threatens the future of these value-teaching organizations and, potentially, the moral fabric of our society as a whole.

II. From Public Trust to Public Trough

According to IRS regulations, there is legal accountability that goes with the privilege of tax-exemption. Or, at least, there is supposed to be. A good case could be made

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that this accountability is increasingly being ignored and/or violated by nonprofit organizations. In recent years, we have example after example of the violation of public trust. One merely needs to remember the enormity of the recent research scandal at Stanford University, where federal funds were diverted for use in areas unrelated to grants. Then, there is the debacle of the PTL Club with the arrest, trial, and conviction of its founder, Jim Bakker. But, perhaps the most blatant violation occurred this past November. On the Friday before the presidential election, *USA Today* carried a full-page advertisement headed "Christian Beware." It was an ad by the Christian Right proclaiming that Bill Clinton supported policies that were against the teaching in the Bible. At the bottom of the ad, it stated "tax-deductible" donations for the advertisement would be gladly accepted, a violation of the IRS code for 501 (c) (3) tax-exempt organizations.

The fact is, historically entrusted to promote cultural values, some of our most important cultural, value-teaching institutions are actually contributing to the loss of the very values they are supposed to be teaching. It is easy to ascertain that this behavior is unethical. But, when we acknowledge the role these institutions play in identifying, conserving, celebrating, and transmitting cultural values, it raises an alarming question as to exactly what kind of values these organizations are teaching. I believe this is the cause of the ethical crisis these organizations are facing. It is what I call a "values collision" and it threatens the organizational culture of these cultural organizations. I believe there are two kinds of "values collisions," external and internal.

III. The External Values Collision

The external "values collision" occurs when an organization's values are challenged from outside the organization. Nonprofit organizations that seek public funding often find themselves confronted with the ethical dilemma of whose value system the public funding is designed to support. Each nonprofit organization is created for a specific purpose, designed to serve a particular and, many times, exclusive constituency. Yet, without tax exemption, many of these organizations could not exist. Therein lies the problem. Whose mission takes precedence, the organization seeking the funding or the agency giving the funding that is designed to meet the needs of the public? To get the public monies, an organization agrees to serve the public when, in reality, they may be only serving the needs of their membership. At a minimum, this

raises concern about the ability of some organizations to be true to their own organizational values and still meet the mandate of public funding. Let me cite a few examples.

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It was only a few years ago when a gallery at a state university received public funding to mount a retrospective exhibition of photographer Robert Mapplethorpe. Included in the exhibition were the famous "seven photographs" that set off a public furor that resulted in the pornography/obscenity/censorship battles between arts organizations and the National Endowment for the Arts that are still going on today. The issues this battle raised between public/community standards versus freedom of expression and individual rights are still unresolved and the source of conflict in the arts community. In fact, I believe the battle is just beginning. It is interesting to note, the evangelical religious right, the major opponent fighting against public funding for the arts, uses the same tax-exempt status to support their "advocacy/lobbying" efforts, raising a question as to whether or not they are, in effect, using public funding to impose their values on the public as well.

Institutions of higher education find themselves confronted with a similar conflict relating to issues surrounding cultural diversity. No public or private institution receiving public funding can fail to address the need for cultural inclusion. While the call for cultural inclusion is clear, the way to accomplish it is not. For private colleges and universities that are church-related, the issue of cultural diversity becomes an even more difficult issue to resolve. They face the same issues as do most religious institutions, which is how to remain true to the sectarian values that brought them into existence, which by definition are exclusive, and still be culturally diverse. These are perplexing issues that clearly result in a "values collision," confronting these institutions with the choice of staying true to their organizational values or jeopardizing their public funding.

Doing what needs to be done to qualify for public funding sometimes makes it difficult for organizations to be true to their values. In addition, there are times when the evaluation criteria and restrictions placed on funding eligibility forces the organization to change in order to comply. Unfortunately, the need for financial support frequently wins out in these situations and a "values collision" occurs.

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Finally, a "values collision" occurs when public funding agencies intervene in private organizations. More than once, I have witnessed intervention by public funding agencies into organizational matters that end up dramatically altering the nature of the organization by requiring it to become or do something that violates its core purpose and values. This is especially true when an organization, by definition of its purpose, takes on an adversarial role with the very agency from which it is seeking funding. It is not unusual for public funding to be used as a "leverage" to force the organization to "tow the line" or punish it for not doing so by reducing or denying funding. While clearly unethical, a system as unregulated as public funding of nonprofit organizations frequently invites this abuse.

IV. The Internal Values Collision

I believe there is an internal "values collision" that is inherent in the nonprofit, tax-exempt values-teaching cultural organization. It occurs when the organizational culture of cultural organizations is challenged from within. My experience has been that many individuals involved in nonprofit, tax-exempt organizations have little or no knowledge or understanding of the values that brought their organization into existence and/or currently drive its mission. Consequently, these organizations do not have a strong value center from which to make decisions. In addition to this, there are conflicting beliefs about organizational values by individuals within the organization. This results in an internal "values collision" that rarely gets addressed, let alone, resolved.

Something else that is happening at an alarming rate, is the emergence of what I call the "nonprofit corporate raider." That is, someone with a strong personality and personal agenda comes into an organization, finds a leadership vacuum, takes over, and imposes a personal value system that supersedes that of the organization. Ironically, this happens most frequently and quite legally in the quiet but socially accepted "coup d'etat" of the annual meeting election of officers. My experience is, this happens before anyone in the organization figures out what is really going on. Unfortunately, by then, it is too late.

Finally, because of the enormous responsibility placed on paid administrators in nonprofit organizations, and the fact many of these organizations have the lowest paying salaries, there is a high amount of burnout and staff turnover. In addition,

many individuals who sit on the board of directors of nonprofit organizations frequently have no training and/or preparation to handle this kind of responsibility. When this is combined with the fact that few people, staff or volunteer, know or understand the organization's values, we end up with organizations that are inadequately managed and ineffective stewards of public and, many times, private funds.

The end result of all of this is, the organizational culture of many cultural organizations is in crisis. They find themselves at odds with the very reason they came into existence, creating an internal "values collision" that causes a gradual disintegration of the organization's core values. This results in the organization being uncentered, producing an imbalance and instability that goes unnoticed until the organization faces dissolution.

V. Practice Strategies for Avoiding the "Values Collision"

When a nonprofit organization finds itself facing either an internal or external "values collision," it makes it difficult to be ethically centered and balanced. My experience has been that most organizations are experiencing both collisions.

We have spent the last few years at the Center for Community & Cultural Studies developing resources for nonprofit, tax-exempt organizations to address these issues. One of these resources is a workshop entitled "Navigating White Water in a Leaky Raft." There is enormous outside turbulence buffeting all aspects of our society. Cultural institutions are not exempt from this turbulence. But, the problem isn't just white water turbulence. The problem is, we are trying to navigate the white water in a leaky raft. And, a raft with a hole in it isn't going to last very long. I believe the holes in our "organizational rafts" are caused by the internal and/or external "values collisions" I have been addressing in this paper. Unfortunately, few organizations know there is a hole until it is too late. As an organizational developer, I rarely get the opportunity to assist organizations address the problem. By the time I get there, I am usually engaged in triage, because the raft has already sunk or hit the rocks.

In this final portion of the paper, I am going to propose three specific "practice strategies" to resolve the ethical crisis confronting nonprofit cultural institutions. Because of space limitations, I will only briefly describe each strategy.

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1. Kick the Public Funding Fix: Breaking the Addiction

Public funding is addictive. It is easy for nonprofit organizations to build a dependency on it and be unable to function without it. The smaller the organization, the more likely this is to be the case. I believe some public funding agencies like it this way because this is a form of indirect control. I have seen entire organizational budgets and programs created solely to meet a funding request. There is certainly a "high" as a result of getting public funding and the subsequent "certification" that comes with it. This high can also be addictive. There used to be enough money around to support this habit and this high. But, the world has changed. Public funding is scarce. Unfortunately, instead of focusing on alternative sources of support, the concern for survival and maintaining the habit takes over. From that point on, everything the organization does becomes self-serving. Decisions on program and budget become "profit/funding" motivated rather than "process/ purpose" motivated. As a result, the organization becomes internally focused while being externally driven. I believe the ethical organization must be just the opposite — externally focused and internally driven. Kicking the public funding fix is the first step toward accomplishing this goal. I am not opposed to public funding (although I frequently get accused of this). Public funding plays an important role of addressing the needs of our society. The problem is when organizations become dependent upon this funding.

I believe the funding crisis isn't the problem, it's the symptom. My philosophy has always been "people put their money where their values are." Our job is not only to be clear about our values but to also make sure we communicate these values to the world around us, every chance we get. If we do this, the money will be there to support our work. Far too many of us assume people know why we exist. The inevitable result of this is a financially unstable and potentially unethical organization. Shared values and shared vision is the answer.

2. Organizational Reframing: Developing The "Third View"

The world has changed. With it, the approach to organizational structure has changed as well. Ironically, the "for-profit" corporate giants long ago recognized the change and began creating new and innovative structures and systems to adapt to it. It is time for cultural organizations to focus on their organizational cultures and reframe the way we approach our structure and governance.

There are numerous ways to accomplish this task. The first is to acknowledge that organizational culture exists. We have to look at our purpose and clarify our organizational values. We can do this through an asserted values assessment and a values audit. This is not just asking the question, "Who are we?" but, the follow-up question as well, "Why are we this way?" In addition, we need to examine whether or not the "asserted" values (what we say we do) are consistent with "acted out" values (what we actually do). From this information, the organization needs to create an evaluation (e "value" ation) document that is used to guide decision making and provide a means to examine the impact of the decisions we make. This focuses not only on the product/outcome but also the process by which the decision was made.

This is more than the traditional mission statement. It includes a clear purpose statement (why we exist), vision statement (where we are going), and organizational mission (what we must do to get there). These three make up the "core" values of the organization, to which everything in the organization is connected. This keeps the organization balanced and enables it to be ethically centered. It is important to note this evaluation document is of no use if it is not reviewed, updated, and used actively in the day-to-day activities and decision making of the organization.

Once this is done, we then need to develop an organizational system (as opposed to structure) that clarifies how each component of the organization functions and relates to the core values of the organization. This system is not based on the traditional vertical or horizontal flow chart. It is based on what I call the "third view" because it requires an entirely new perspective to see it.

3. The Death of Superman: Rethinking Leadership

Many nonprofit organizations have governance systems that are archaic and perilously out of touch with current trends in organizational theory. They perpetuate a traditional style of leadership that is based on position. I call this the "Superman Syndrome," and it is based on the continuing belief that one individual can "save" an organization. What it does is encourage autocratic decision making that may achieve the end product desired, but violates the "value centered" process. When this happens, regardless of how "good" the end product is, it makes organizational integrity difficult, if not impossible, and inevitably contributes to the ethical "disintegration" of the organizational culture. It is time to retire the "Big Red S" and

encourage a new kind of leadership.

This is specifically addressed to those who serve in administrative positions in nonprofit organizations. I intentionally use the word administrative because of its root meaning (ad + ministrare) which is the Latin word for minister and means "to serve." That is what I believe our role is — service. But this requires rethinking the role of leadership. Our job is not to drive the organization, but to promote the shared values that drive the organization. I believe ethical leadership is value centered and works to keep the process and the product in a healthy, creative balance. I also believe ethical leadership engages in the "leadership of discomfort," inviting and enabling individuals and organizations to face conflict and resolve it. Finally, I believe ethical leadership is grounded in the organization's values and manifests the courage to take risks, to innovate, and to try new things to meet the growing needs of the community we serve.

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In a sense, all of us who work in and with nonprofit, tax-exempt organizations serve as stewards of the values. I am increasingly convinced that effective, ethical leadership coincides with the role and responsibility of that of a "pilot." In our culture, a captain is one who is in charge and steers the aircraft. In the days of early sea exploration, a pilot wasn't the captain of the ship but the one who could read the charts and maps, and, when necessary, use the stars to steer the ship to its final destination. I am proposing that we change from positional leadership (captain) to functional leadership (navigation). I believe this is ethical leadership and nonprofit administration at its best.

Conclusion

Nonprofit cultural institutions, in particular, religious, higher education, and arts/humanities organizations, play a very important role in teaching values. But, many of these organizations are confronted with an ethical crisis that threatens to diminish the contribution they make. As we address the needs of these organizations, I believe we must carefully examine the role of organizational values and the role these values play in the organizational culture of these cultural organizations. For the simple fact remains, we cannot cultivate ethical organizations if we are not ethical ourselves.

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Author's Addendum

Although this paper is about nonprofit values teaching institutions in general, my experience and primary reference point is with arts organizations. Our work at the Center for Community & Cultural Studies focuses on developing organizational and professional development resources to address the issues discussed in this paper. Because of this, I wanted to add a postscript addressing how this ethical crisis relates to the arts, in particular, the local community arts setting.

I believe there are three overarching values collisions that affect our society as a whole and have had a tremendous impact on the arts the past few years. Because of the tradition of dualistic thinking in our society, these values collisions consist of what appear to be opposing ideas, representing the polarization that is prevalent in our society. These include: (1) sacred versus secular, (2) individual versus community, and (3) process versus product. By the very nature of their role in identifying, conserving, celebrating, and transmitting cultural values, the arts are being sucked into the vortex of a complicated and potentially destructive collision between these three opposing value systems. But, the conflict isn't about the arts, it is about the values some art is expressing. For example, I don't believe the recent NEA controversy and subsequent battle with the evangelical religious right is about pornography, obscenity, and freedom of expression — it is about the inability of people to separate the values the arts represent from the way the arts represent the values — it is a failure to understand what the arts are and what value they have in our society. We are a society that prefers to treat symptoms rather than "dis-ease." Consequently, it is easier to kill the messenger than to deal with the message. And, if there is anything the arts do well, to our credit and to our discomfort, it is to speak with a clear and authentic voice about the conditions of the world in which we live. This is why I believe the NEA controversy will never be resolved in the halls of Congress, in the reauthorization of the NEA, or in the courts. This controversy represents a collision between all three overarching values I mentioned at the beginning of this addendum, and it is not going to go away. The issue isn't pornography or obscenity. The issue isn't public funding for the arts. The issue isn't freedom of expression. The issue is values.

Unfortunately, there is more to this issue than the arts being under attack from outside our community. I believe the arts community itself is unclear about the

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values that drive our work and this contributes to an internal values collision that is potentially more damaging than any external attack on the arts. The conflict within the arts community the past three years regarding issues surrounding freedom of expression and individual rights versus community standards and responsibility, has been more divisive than most of us are willing to admit.

It is for this reason I have concluded that of the three value-teaching institutions I address in this paper, the ones in the greatest jeopardy are arts organizations. In particular, those that exist in rural and small communities all across this country. The reason for this is that people in arts organizations in these communities, especially those of us who are arts administrators, are caught in the crossfire between opposing value systems that demand us to choose sides. What some promote as clear-cut choices, many of us struggle with because we are less sure or we see both sides. Indeed, many times, those of us in community arts development work find ourselves and our values not only in conflict with those outside the arts community, but also within the arts community, with the very individuals, organizations, and communities with which we work. This is the ethical dilemma we deal with every day and it has taken a tremendous toll on us. It all points to an internal values collision many of us, and the organizations and communities we serve, may not survive. This is the real crisis facing our field.

The irony of all of this is, the arts are one of the few means by which these over-arching values collisions, and the subsequent social dis-integration that occurs because of them, can be avoided. This is because the arts are both an individual expression and an invitation to create and celebrate community. This is because the arts express both the sacred and the secular. And, this is because the arts are clearly involved in both the process and product of creative expression. The arts create a circle of community where all three value polarities meet and, when things go right, can be transformed from collision to convergence. But, this can not and will not happen until we begin to communicate effectively about who we are, what we do, and why we do it. We must develop a shared language about the values that drive our work in the arts and we must begin to share this with those with whom we work. We have to stop letting others set our agenda and make claims about us and our work that are not true. We cannot do this until we stop talking about the symptoms, and start addressing the critical issues facing our field and our society. If we can do

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this, perhaps, we can do more than just survive the values collisions. Perhaps, we can help stop them from happening. ▼

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