Excellence in Family Philanthropy Working Paper

Ethical Issues for Community Foundations Supporting
Philanthropic Families
March, 2007

Introduction and Objectives

This paper was prepared as part of the Excellence in Family Philanthropy Initiative, a collaborative learning project among 19 community foundations (known as Founders). The objectives of the initiative are to share and develop best practices and resources for community foundation staff who work closely with donor families. The purpose of this paper is to identify some of the unique ethical issues and dilemmas that can surface in this work and provide guidance, where possible, on how to address them. The content is drawn from a survey questionnaire (completed by 14 Founders) and a 1.5 hour conference call focused on this topic. Both source documents can be found in the password protected EFP website.

A Framework for Considering Ethical Issues

Steve Johnson of TPI, drawing heavily on the work of the Institute for Global Ethics, suggested several frames to help the group think through ethical issues. First, he noted that ethics involve right vs. right dilemmas. Situations that involve right vs. wrong dilemmas, such as self-dealing, are moral, not ethical. The following are the most typical categories of ethical dilemmas:

- Truth vs. loyalty – e.g. a grant applicant, who is a friend, asks if you know whether his organization will be getting a grant. You know the answer is no, but are committed to secrecy as a staff member.
- Individual vs. community – e.g. do you test a promising new vaccine on 100 healthy children knowing for certain that 2 will die, but that thousands will be saved when the vaccine is marketed?
- Short term vs. long term – e.g. do you do something in the short term that is difficult for the family, but which you believe will return positive results in the long term?
- Justice vs. mercy – e.g. a colleague has shared confidential information about the foundation that may affect its reputation, but you know that this colleague is going through serious personal problems.

Founders identified a number of ethical issues that they have encountered or could potentially face when supporting family philanthropies. Some of these situations could occur with any donor, while others are unique to a family context. We have organized the remainder of the paper according to these 2 categories.

On the conference call, we invited several Founders to share specific dilemmas and asked the group to offer advice for resolving the dilemmas. The case examples presented below are sometimes fictional and sometimes drawn from real cases. Where the group discussed this dilemma, we have included their discussion and advice.

Ethical Issues for any Donor Relationship

Among the ethical issues identified by the Founders were a number that are relevant to any donor engagement – whether the donor be a family, couple or individual. Several of these issues are addressed through the COF National Standards for U.S. Community Foundations[i], although some are not covered by any of the Standards or only tangentially. Outlined below are the issues mentioned most frequently by the Founders group, in some cases illustrated by a real situation; in other cases illustrated by a fictional vignette.

160 Federal Street
Floor 8
Boston MA 02110

617.338.2590 P
617.338.2591 F

www.tpi.org

1. Balancing the need to meet donors where they are vs. encouraging and engaging them in strategic giving

For several years now Connie had helped to facilitate the Friends foundation's annual meeting and had listened to the family debate which of the dozens of requests that came in to the foundation most deserved funding. Connie tried her best to reserve judgment, but the reality was that she felt that the funds could be so much better deployed if only the family would think about philanthropy as a strategic investment in society. She wondered how she could inspire or at least nudge them to become more strategic, to create a mission and identify a few focus areas, without seeming critical.

A number of Founders discussed similar situations they had encountered and agreed that they posed both an individual vs. community dilemma and a short vs. long term dilemma.

Several Founders suggested that it was important to educate donors about the possibility of being strategic, either through one on one conversation or through a series of donor events. One Founder said of her approach, *"When it comes to the issue of strategic or not, I think my obligation is to at least educate the donor about the fact that they can (be strategic), if they have a passion in their grant-making, and maybe they haven't explored that…. if they decide that they like reactive grant-making vs. strategic, then that's their decision. But I think educating them about the possibility of having more of an impact through strategic grant-making is just part of what our program is about."*

Another founder commented *"I use the touchstone of meeting people where they are, and then it's our job to set up a framework that can have a very long time horizon to bring people from perhaps a less strategic to more strategic place, or a new way of thinking about their own place and the leverage that their philanthropy has on the world."*

2. How to work with donors whose grantmaking is clouded by personal relationships – e.g. funding weak programs/organizations run by good friends

Cindy from CCC community foundation pondered whether she should say what was on her mind. Mel, a significant donor to the community foundation, had asked her why the community foundation did not support the after school program run by her goddaughter. Mel had given the organization major gifts over the last 3 years, consistent with her pattern of supporting local groups that had some connection to a close friend or family member. If Cindy were to be honest, she would have to tell Mel that the foundation's grantmaking staff had identified a raft of problems with the program. But Cindy feared that such a conversation would not go over well.

This dilemma was not discussed in the conference call, but surely raises the ethical dilemmas of truth vs. loyalty and individual vs. community.

3. Balancing the needs and wishes of donors against potentially conflicting or competing foundation goals – e.g. promoting foundation priorities

George from TTT community foundation felt a lot of pressure from his superiors to convince his Donor Advised donors to direct some of their annual grant-making towards the foundation's discretionary fund pool, specific initiatives and the local community. Aware that the community foundation's mission is to direct and connect philanthropy to community needs, he sometimes felt confused about "who is the client?"

Several Founders acknowledged that they faced this situation and that it was primarily a dilemma of individual vs. community but also one of potentially conflicting loyalties. One Founder noted that she resolved this by inviting donors to attend educational events presented by the foundation's program staff. *"A lot of it has been tied to donors both wanting to do what they want to do…and choosing where they want to put their dollars, but we're also finding*

that they really like knowing what the foundation is doing and supporting that…So I think we try to walk on both sides."

Another Founder suggested that clear communication was the answer and that the staff member could raise up foundation priorities, and explain the connection to the mission of the foundation. There was general consensus that there was no ethical obligation to talk about foundation funding priorities or to persuade donors to donate to the foundation's discretionary fund.

4.   How to record important, but confidential information for the purpose of institutional memory

Adam of NNN Foundation was working with a prospective family who was very well known in the community and whose donation to the foundation would be the largest gift they had ever received. Naturally, he alerted all the senior managers to the possible gift and provided them progress reports. All of a sudden he found out that the family wanted to be totally anonymous, not just in the community, but within the community foundation. Oh no, how to put that genie back in the bottle? And how to handle the confidentiality concerns going forward?

Jane of LLL Foundation works with a variety of philanthropic families. There are many times when individual members will talk to her about different things that are happening, either within the family or personally that she feels are highly relevant to the foundation and needs to be recorded somewhere. She is also aware that the families would consider this highly confidential information. But what if she got hit by a bus and there was no record?

Several founders identified with these issues about keeping donors' confidences yet still maintaining professional accountability. One Founder explained that her foundation had dealt with a situation of a donor who wanted to be truly anonymous - by essentially keeping two sets of files. In the open files, she kept a copy of the agreement, transactions and various notes, none of which identified the donor. In a lock box, which only 2 senior staff had access to, was the identity and signature of the donor. When the donor eventually died, and his son became the successor advisor, the donor's identity became known. Within the ethics framework, this was primarily a dilemma of individual vs. community.

Another Founder noted *"I think this keys into the culture that we create of confidentiality and professionalism….if it means that we periodically hold board conversations as to the need for this and understanding what the procedure is… it helps everyone have confidence in how we do our work."*

5.   Blurriness of professional/personal boundaries in a donor relationship and the red flags to watch out for – e.g. accepting gifts, working with clients with whom the advisor has a pre-existing relationship

As a program officer with the II Community Foundation, Judy had developed close relationships with some of the foundation's major donors. One in particular, an older woman whose family had all moved to the coast, was particularly attached to Judy and wouldn't work with anybody else at the foundation. Judy was pleased to be so highly valued, but was struggling with how to keep some professional distance from the donor. Just the other day, the donor had implied to Judy that she might leave her part of her estate!

This dilemma was not discussed in the conference call, but probably raises the ethical dilemmas of trust vs. loyalty and possibly justice vs. mercy!

6. **Addressing disclosure/conflicts of interest among donor advisors, CF staff and other professional advisors to donors – e.g. serving on boards of grantees**

Frank of the CC Community Foundation was approached by one of the 3 advisors to the Merryknoll fund (a very large donor advised fund which had previously been a private foundation) and told that the parochial girls high school where she is a part-time employee would like to make a grant request to the fund. How should this be handled and what hats should the advisor wear – decision-maker, grant seeker, employee?

This case, the Founders agreed, was a pretty straightforward one of conflict of interest, and could be handled by developing a conflict of interest policy for the fund. Such a policy would typically ask the advisor to excuse herself from voting on the grant request. One founder pointed out that such a policy would leave just 2 advisors and, in the event of a split decision, how would the community foundation staff member advise the fund to proceed? One suggestion was that the staff member could play a role in assuring that the grant request at least met the standards and criteria – or did not – of the fund.

Ethical Issues for Family Donor Relationships
Other ethical issues may surface when working specifically with family donors because of their greater complexity, larger number of relationships, frequent inclusion of minors, and challenging family dynamics. These issues may place the community foundation staff in the position of facilitator, interlocutor, or mediator, and pose ethical issues such as the following:

7. **Clearly understanding the needs of a family client, setting expectations appropriately, and knowing when to bring in outside expertise – e.g. family therapist.**

Dianne of the XX Community Foundation was not quite sure what to do. While interviewing all family members in preparation for the first retreat of the Lee Family Fund, she had come to the conclusion that this family had a lot of "issues." They were a blended family and there seemed to be a lot of resentment on the part of the patriarch's children of the new wife's young kids. She wanted to suggest to the parents that a family therapist be engaged to help out, but feared they would take offense. After all, Mom had said to her "it's amazing how we have gelled together as a family!"

The Founders did not address this dilemma in the conference call. The primary ethical dilemma raised is likely to be short term vs. long term; i.e. by ignoring the issues in the short term for the sake of family harmony, one might face larger issues in the long term.

8. **Determining and respecting confidentiality needs within the family - e.g. sharing donors' financial data with next generation members or sharing personal information about next generation members with parents.**

Alan was almost finished facilitating the first family meeting of the Horner family fund, when out of the blue Dad said to him "What do you think about using a fund like this to give to radical religious organizations?" Prior to the meeting, Alan had heard from the planned giving officer of the AA community foundation that the parents did not want their sons to make gifts to their evangelical churches now or ever. However the parents had not told Alan this directly and he felt both sabotaged and perplexed about what he should say.

The Founders agreed that Alan's best next move was to demur and hold an off-line conversation with the parent generation to explore why they felt so strongly about this issue, what their objectives were for including the next generation, and possible approaches to resolving the situation. One founder observed that the intensity of this issue suggested there could be other points of conflict and that it might be helpful to engage the family in a series of activities to help its members become more respectful of different points of view. For example, they might attend a workshop on family dynamics.

This case also raised the issue for a few founders of *"who's the client – the parent generation or the whole family? What if you don't agree with what the parents are proposing and it isn't as comfortable ethically?"* For some, this question was particularly pertinent when the next generation members are adults. The point was made that, in the case of a family foundation where next generation members are already on the board of directors, why wouldn't you consider the entire Board the client? Several folks spoke to the importance of clarifying who the client is – which can in part be addressed through a conversation about objectives - early in the relationship.

9. Clearly understanding the donors' expectations and needs with regard to staff interactions with family members – e.g. contacting other family members

> The voicemail on Maggie's phone gave her a start. It was the younger son of the Kuaa family saying that he wanted to talk with her "off the record" about issues relating to his family's fund. As the family's donor relations officer at the YYY Community Foundation, Maggie had dealt only with the parent generation and had been helping them identify ways to engage the next generation (the son was one of the successor advisors). Should she call him back or should she call one of the parents and get their counsel?

The Founders did not address this dilemma in the conference call. It appears to raise ethical concerns around truth vs. loyalty.

10. Respecting confidentiality with regard to family dynamics – e.g. sharing this information with other staff or personal friends

> Norm puzzled over what he should say to his boss, the President of the QQQ Community Foundation, who had just asked him whether he thought Mr. Smith would accept his invitation to become a board member for the foundation. In facilitating a series of family meetings for the Smiths, Norm had gotten to know Mr. Smith and his family more than he ever wanted to. He had seen Mr. Smith bully other family members, lose his temper and – what bothered Norm most – cut off his wife from speaking. Sure, he had a lot of money and was highly respected in the community. But should he tell his boss about his family behavior?

The Founders did not address this dilemma in the conference call. The situation raises questions of truth vs. loyalty.

---

[i] Specifically, the following National Standards are most relevant (and paraphrased)
- Standards VI.A. - Obligation/opportunity to inform and educate donors about community issues and grantmaking opportunities
- Standards VI.B - Obligation/opportunity to actively involve donors in identifying and responding to community issues and opportunities
- Standard VI.E - Confidentiality with respect to private information about donors and prospects