THE SKY IS NOT FALLING:
Tools for Managing Risk[1]
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Katherine Karl, General Counsel & Chief Legal Officer
The Humane Society of the United States
1255 23rd Street, N.W., Suite 450
Washington, D.C. 20037
Email: kkarl@humanesociety.org

Nicola Fuentes Toubia
Fuentes Toubia, PLLC
2450 Louisiana, Suite 400
Box 936
Houston, Texas 77006
Email: nicola@toubialaw.com
Office: (713) 589-2138
Cell: 202-288-8268

I. Proactively Minimizing Risk.[2]

Effective risk management of a nonprofit organization begins at the strategic level by evaluating organizational risk and examining the total operations of the organization. Organizational risk includes all types of risk, such as budgetary, reputational, cybersecurity, employee, legal, investment, funding, etc. It is everywhere, as evidenced by the corporate scandals that constantly make headlines. Corporate scandals – large and small – may also plague nonprofits. Today's disgruntled employee may be tomorrow's whistleblower or #MeToo follower.

Because nonprofit organizations are not exempt from traditional corporate risks, nonprofit leaders should ensure that their organization has an ongoing plan to assess and diminish risk. Executive communication and cohesive systems, processes, and methodologies can do a lot to mitigate organizational risk. For example, nonprofit executives can implement anonymous reporting channels, communicate policy and procedure updates on a formal and timely basis, and emphasize the importance of compliance so that employees are more likely to adhere to the policies and controls that a nonprofit implements.

Hurricane Harvey's devastation of southeast Texas highlights the risk that nonprofits face from natural disasters – both to their organizations and the communities that they serve. While

[1] The information contained in this outline, as well as the PowerPoint presentation, is presented for educational purposes only and is not intended to be and should not be relied upon as legal advice. This outline is an overview of the risk areas that most nonprofits face and is designed to alert nonprofit executives to areas of concern and how best to manage them. This outline serves a legal reference and the PowerPoint presentation, as well as our discussion, contains the tools.

[2] The authors would like to thank Ellen Taus, former Treasurer & CFO of The Rockefeller Foundation, Ellen D. Willmott, former interim President & CEO of The Susan G. Komen Breast Cancer Foundation, Inc., and Rachel Luna -- all of whom prepared worked on other versions of this outline.

good risk management cannot prevent historic flooding, it can minimize the damage and the recovery time.

While this outline discusses risk management components that are common to all nonprofits, it is important to recognize that effective risk management must be tailored to each organization. There is not a one-sized-fits-all/off the shelf approach that will work for your organization. Further, risk management is a journey, not a moment in time. The best way to manage risk is to build methodically on what your organization currently has in place and add or subtract risk management tools as you continue your journey.

a. **High risk areas.**

i. **Lack of financial oversight**. Failing to provide adequate financial oversight can result in significant losses to an organization's finances and reputation. Moreover, with the recent changes to Federal tax laws and fear that an increased standard deduction may reduce charitable giving, nonprofits would be wise to closely monitor their finances to quickly identify any shortfalls.

ii. **Founder or employee misdeeds and/or negligence**. Employee misdeeds can also have a detrimental effect on a nonprofit. In the three years since this risk management presentation was last given, Ms. Toubia has been represented several nonprofits that are battling problems created by "founder-itis". In addition, many non-profits are thinly staffed, particularly in the area of financial oversight, in order to provide maximum resources for programmatic activity. This can mean an open door to certain employees inviting malfeasance or fraud. It has been our experience that a door left open long enough means that someday someone will walk through it.

iii. **Cybersecurity**. Today's risk management programs must assess cybersecurity risk because nonprofits cannot operate well without managing donor and client data. The AICPA has developed and released three System and Organization Controls ("SOC") for Cybersecurity. Nonprofits can use these SOCs to evaluate their cybersecurity program because cybersecurity has moved beyond just the realm of the information technology department. It is more than just a firewall – cybersecurity involves communicating with stakeholders about who should have access to certain data and what is data is utterly essential to the organization's operations. Management must understand and monitor cybersecurity. If the nonprofit does not have sufficient expertise in-house, cybersecurity risk management may involve contracting with external security managers to protect the organization's data.

A nonprofit should consider the type of data it is collecting, the sensitivity of that data, how the data is stored, who has access to the data, and how to

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Also available as part of the eCourse
Managing Public Charity Risk

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