



Doing Business With and Compensating Insiders: Strategies for Success and Intermediate Sanctions Compliance

The University of Texas School of Law
36th Annual Nonprofit Organizations Institute
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5:20 p.m. to 6:05 p.m.

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Nonprofit Executive Compensation Scrutiny & Investigations



Who Cares?

- IRS – Mitigate Tax Abuse
- Congress - Legislation
- State Regulators – Attorney Generals
- Consumer Oversight / Public Defender
- Donors – Contributions in accordance with donative intent
- Media – Excessive compensation makes great news
- Members – Member intent governance - use of dues - contributions
- Competing Organizations – Competition for sources & funds
- Competing Interests – Adversaries – Exec Comp – Tarnish public image
- Communities Served - Trust
- Executives, Employees, Constituents , & Stakeholders

Stakes Are High If Executive Compensation & Governance Strategies Are Not Successfully Put Into Place to Protect The Organization



Examples of Who Have Been Investigated / In The News

- ❖ Wounded Warriors
- ❖ Goodwill
- ❖ Big Brother / Big Sisters
- ❖ United Way
- ❖ Fiesta Bowl
- ❖ Health Care Institutions
- ❖ Higher Education Institutions
- ❖ Better Business Bureau Affiliate
- ❖ Mega Church Pastors
- ❖ Private Foundations – Clinton - Trump
- ❖ Trade Unions

Oversight of Nonprofit Executive Compensation **Who Does It Affect**

“Disqualified Persons” / “Key Employee” / “Highly Compensated”

- Disqualified persons are generally defined as any person in a position to exercise substantial influence over the affairs of the nonprofit organization anytime over a 5 year period preceding the date of the compensation transaction.
 - ✓ Voting Board Member
 - ✓ President, Chief Executive Officer, Executive Directors
 - ✓ Chief Operating Officer
 - ✓ Treasurer, Chief Financial Officer
 - ✓ Executive Staff / Vice Presidents based on Treasury Regulations
 - ✓ Consultants
- Key Employee - \$150K Test; Responsibility Test; Top 20 Test
- Current 5 highest compensated over \$100,000

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