NCRP's *Accountability Standards* Debuts at Senate Hearing

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It has to be one of the most collegial committees in Congress. Sen. Chuck Grassley (R-Iowa) and Sen. Max Baucus (D-Montana) run the Senate Finance Committee as an amicable duo. Together, they have beamed in on the problem of nonprofit and philanthropic accountability and convened a hearing on the topic on June 22.

Their interest in nonprofit accountability was originally piqued by the mismanagement scandals of the United Way of the National Capital Area, followed by front page *Washington Post* coverage of the Nature Conservancy's propensity for engaging in land preservation transactions with members of its board of directors.

In the wake of a task force led by former Transportation Secretary Rodney Slater to clean up the United Way, followed by a forensic audit, the firing of the local United Way leadership (including the conviction of one UW executive director), the National Capital United Way is slowly emerging from its inability to count money accurately and devote funds to local agencies rather than huge salaries, perks and doodads for executives. The rescue of The Nature Conservancy required a panel report from luminaries such as former Harvard University President Derek Bok and former Packard Foundation Executive Director Richard T. Schlosberg to recommend that the Conservancy prohibit insider transactions with board members and their families and be a bit more industrious in identifying and avoiding potential conflicts of interest.

Although the United Way and The Nature Conservancy slipped out of the Senate Finance Committee's tractor beam, the nonprofit sector overall was caught in the spotlight, aided and abetted by a Government Accountability Office report on charitable car donation scams and a *Chronicle of Philanthropy* exposé of nonprofit executive directors profiting from low- or no-interest loans from their charity employers. The committee's staff developed a "white paper" of potential regulatory improvements for government oversight and enforcement of nonprofit accountability standards, mostly on nonprofit accountability, but included were areas within NCRP's focus on institutional philanthropy—attention to compensation for foundation executives and trustees, donor-advised fund reforms, treatment of foundation administrative expenditures, issues of self-dealing and other questionable board member behaviors.


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The Senate Finance Committee invited NCRP to testify. NCRP's written statement and particularly its oral testimony were exceptionally different from the testimony offered by the hearing's other 12 witnesses: We focused on philanthropy, and we offered concrete, specific actions that could and should be taken. The three legs of NCRP's philanthropic accountability agenda presented at the hearing were: (a) strengthening the laws and regulations for addressing foundation accountability and correcting foundation excesses; (b) calling on the philanthropic sector to get serious about dealing with the malefactors who sully the good work of foundations; and (c) increasing the resources devoted to governmental oversight of philanthropy at the federal and state levels—through the rededication of the foundation excise tax for oversight and accountability.

At the hearing, in our allocated five minutes, we made the following proposals:

1. Reduce the foundation excise tax to 1 percent and dedicate the entire remaining excise tax payment (estimated to be $350 million annually) to doubling the budget of the IRS

Tax Exempt/Governmental Entities unit budget, allocating $140 million to fund the charity offices of state attorneys general, and using the remainder for nonprofit research and accountability efforts.

2. Overhaul IRS forms 990 and 990-PF to include important information for oversight and accountability (like revealing insider business relationships), have 990s e-filed whenever possible, and make 990s searchable for free on the Internet.

3. Expand charitable grants disclosure beyond private foundations to include all grantmaking public charities (not just community foundations) and corporate charitable grantmaking, and enforce the full IRS standards on grant disclosure to include not only the grant amounts and recipients, but also the purpose of the grants and information about potential conflicts of interest.

4. Remove foundations' administrative costs from their calculations of qualifying distributions or "payout" and raise the minimum payout level to 6 percent of net assets.

5. If there is a need to pay trustees (which we generally think is simply not necessary), limit trustee compensation to no more than $8,000 per year—and completely prohibit foundations from hiring and paying their trustees, their families and the trustees' businesses for business services such as investment, accounting and legal functions.

6. Extend disclosure and payout requirements to donor-advised funds (DAFs).

NCRP's longer written submission tracked our release of comprehensive *Standards for Foundation and Corporate Grantmaking*, the result of a lengthy effort by the NCRP board of directors to generate a framework for governmental regulation and philanthropic self-regulation. NCRP's *Standards* included calls for increasing the racial, ethnic, gender and class diversity of foundation boards of trustees, increasing foundations' core operating support grantmaking, focusing foundation grantmaking on the needs of disadvantaged and disenfranchised populations, promoting foundation support for public policy advocacy and civic engagement, calling on foundations to use social screens in their investments, preventing foundations from concentrating their investments in a small number of corporations, and promoting foundations' mission-based investing.

We operate under no illusion as to the likely follow-up to the Senate Finance Committee hearings. With political conventions in the summer and a national presidential election in the fall, legislation doesn't seem likely. In addition, most nongovernmental witnesses gave lip service to governmental oversight but lobbied none too subtly for self-regulation, self-policing and accreditation models as substitutes for putting resources into the IRS and state attorney general offices.

But the Senate Finance Committee hearings (matched by simultaneous House Ways and Means Committee hearings on nonprofit hospitals) have legitimized the national debate on nonprofit and philanthropic accountability. After June 22, those nonprofit and foundation leaders who publicly bemoan the bad apples in the sector now have to think about how to get the bad apples out of the barrel. By offering specific concrete actions in contrast to earnest expressions of concern, NCRP will be at the table in whatever forums result, including the Senate Finance Committee Roundtable on Nonprofit Accountability scheduled for July 22.

NCRP's oral statement from the hearing, the written submission and the complete Standards for Foundation and Corporate Grantmaking *are available on the NCRP Web site (www.ncrp.org).*

Rick Cohen is executive director of the National Committee for Responsive Philanthropy (NCRP). NCRP is an independent nonprofit organization founded in 1976 by nonprofit leaders across the nation who recognized that traditional philanthropy was falling short of addressing critical public needs. NCRP's founders encouraged foundations to provide resources and opportunities to help equalize the uneven playing field that decades of economic equality and pervasive discrimination had created. Today NCRP conducts research on and advocates for philanthropic policies and practices that are responsive to pubic needs. For more information on NCRP or to join, please visit www.ncrp.org, call (202) 387-9177 or use the enclosed membership form.

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