



**FREQUENTLY ASKED QUESTIONS (FAQs)
ABOUT FUNDRAISING ETHICS**
Reviewed by Ethics Committee, September 2016

Standards Relevant to Business Members:

Q. Which standards in the AFP Code of Ethical Principles and Standards (AFP Code) are particularly relevant for Business members?

A. The AFP Code applies to all members in the business member category. The following standards cover the items which may be of particular relevance for Business members:

- Standards 7 and 23 encourage honest representation of products/services and prohibit the offer or acceptance of payments or special considerations for the purpose of influencing the selection of products or services.
- Standard 8 requires transparent and reasonable contractual relationships.
- Standard 9 ensures the protection of other parties' intellectual property rights.
- Standard 10 covers confidentiality of privileged information related to the provider/client relationship.
- Standard 11 prohibits members from any activity that would disparage competitors in an untruthful manner.
- Standard 15 ensures proper stewardship of all revenue sources.
- Standard 18 protects donor and prospect information.
- Standard 21 covers percentage-based compensation and finder's fee and now reflects the new business member category.
- Standard 25 requires any member receiving funds on behalf of a donor or client to meet the legal requirements for the disbursement of those funds.

Percentage Compensation

Q. What is the AFP Standard of Professional Practice regarding percentage compensation?

A. Standard No. 21 states: "Members shall not accept compensation or enter into a contract that is based on a percentage of contributions; nor shall members accept finder's fees or contingent fees." In this context, a finder's fee is defined as a fee paid for bringing a donor or a contribution to a not-for-profit organization.

Q. So what does Standard No. 21 mean?

A. It means that an AFP member or any other person or entity subscribing to the AFP Code of Ethical Principles may not accept any compensation that is based or conditioned upon a

percentage of funds raised or generated for a not-for-profit organization. For the purpose of this standard, “funds” are not only those defined by and subject to government regulations, or reported to the federal government as contributions, gifts, grants, or similar amounts received but also include sponsorship, advertising and similar revenues.

For more information about percentage-based compensation, please see AFP’s position paper on the subject:

http://www.afpnet.org/content_documents/Professional_Compensation_Position_Paper_102001.pdf

Q. What is the purpose of this standard?

A. There are three primary principles underlying this standard:

1. Support for a nonprofit organization in any form is a voluntary action for the public benefit.
2. The seeking or acceptance of charity revenues should not result in the personal benefit of any employees, contractor, or representatives of a charitable organization.
3. Donor attitudes can be unalterably damaged in reaction to undue pressure and the awareness that a commission will be paid to a fundraiser from his or her gift, thus compromising the trust on which charity relies.

The purpose of this standard is to ensure that individuals or entities engaged in the fundraising sector are compensated for their experience, their expertise, the value of the product delivered, and the work they actually perform on behalf of the charitable organizations that employ their services, and not for work performed by others, funds obtained without meaningful effort by the AFP member, or funds obtained outside of the mission of their organization. This standard recognizes that revenue generation by or for a nonprofit organization represents an ongoing endeavor through which current revenues received may be the result of efforts of others in previous years, and current activities may result in revenues which are received only in the future. Finally, donor trust is of paramount importance. To earn and keep that trust, every aspect of charitable activity must be absolutely ethical and that includes the area of compensation. It is imperative that a compensation structure does not place self-gain over charitable mission and undermine donor trust.

Q. What are examples of unacceptable compensation?

A. Examples of unacceptable compensation practices include:

- Accepting percentage-based compensation because an organization lacks sufficient budget, with the expectation that such will be converted to salary or fee when funds are available.
- Disguising compensation as salary, fee or bonus when it is, in truth, a percentage of funds raised.
- Accepting a compensation package in which a part is salary or fee and the balance is to be made up of a percentage of the funds to be raised.

Q. Does this standard also apply to business members?

A. Yes, this standard recently was rewritten to include business members. The second part of the standard now reads: “Business members must refrain from receiving compensation from third parties derived from products or services for a client without disclosing that third-party compensation to the client (for example, volume rebates from vendors to business members).”

Q. What is an example of unacceptable practices by a business member under this standard?

A. A business member would violate standard 21 if it failed to disclose to a client a third party program that provides the member with volume, repeat business, or similar discounts or payments which are not then shared with the client.

Q. How does this standard affect vehicle donations and what should I focus on in evaluating vehicle donation organizations?

A. Because there are a variety of car donation models that exist, a member should focus on the compensation model used to insure that it complies with the Standard 21 when evaluating the use of one of the third party car donation programs.

An example of an ethical form of vehicle donation compensation model is a case where the charity receives net proceeds of the gross sale less towing/cleaning/advertising and a 30% flat administrative fee. The 30% administrative fee is a flat fee and applies to all charities using their service.

Another common car donation model is a fixed price for all vehicles regardless of their blue book value or sale price. Those organizations that continue to do high volume car donations have created their own vehicle donation programs. This entails the charity picking up and arranging the sale of vehicle directly. The charity bears these costs. In this situation some charities work with third party auction dealers to auction their vehicles and in these cases most liquidate on a per unit price. This model would also comply with the AFP Code.

Incentive compensation

Q. What is considered to be incentive compensation?

A. Incentive compensation is compensation (such as a bonus) that is based on the accomplishment of mutually agreed-upon, pre-established overall goals related to an AFP member’s responsibilities as an employee or service or product provider. To be in accord with Standard No. 22, incentive compensation must meet all of the following conditions to be acceptable:

1. the member's organization has a policy and practice that awards performance-based compensation;

2. the policy has the approval of the organization's governing body;
3. the policy and practice include, but are not limited to, the member's area of responsibility (e.g., are a norm within the organization);
4. the criteria are restricted to mutually agreed-upon, pre-established overall goals; and
5. the criteria for determining the eligibility for, and amount of, such compensation shall exclude any consideration of a percentage of contributions. This should be interpreted as an absolute prohibition of any reference to, or use of, a percentage of income to determine compensation, either in effect or actuality.

Q. How is incentive compensation different from percentage compensation?

A. Incentive compensation is based on the achievement of mutually agreed-upon, pre-existing goals related to the AFP member’s overall responsibilities and performance (and must meet all of the conditions described above), whereas percentage compensation is compensation that is computed purely or partially as a percentage of revenues generated regardless of performance, adherence to standards, satisfaction of overall needs of the organization or client and similar factors.

Q. What are some examples of acceptable incentive compensation?

A. In terms of acceptable incentive compensation, there are three models that AFP recommends:

1. Percentage of Salary

For example, if a fundraising professional exceeds budget or fundraising goals you would give them 10% of their salary (10% x \$58,000 (salary) = \$5,800 incentive compensation.

Performance Based-Compensation: The Chief Executive Officer will work with you to outline a plan with very clear goals and objectives for the position, both short-term and long-term, and based upon mutual agreement, to ensure the collective success of the organization. This will include specific milestones, with adequate and reasonable time-frames to reach each milestone. The position will include the following fundraising performance based-compensation in addition to your base salary:

This model is the simplest and most straight-forward.

% Above Target	Salary	% as Bonus	Bonus
0	\$58,000	5%	\$2,900
15%	\$58,000	10%	\$5,800
33%	\$58,000	20%	\$11,600
50%	\$58,000	30%	\$17,400
66%	\$58,000	40%	\$23,200

2. Incentive Compensation based on non-financial indicators such as:

Number of new donors acquired
Number of gifts upgraded
Number of "asks" made
Etc.

In this model, these non-financial indicators are determined and agreed to at the beginning of the year. For example, If the indicators are achieved the fundraising professional would receive a \$5,000 bonus. If the indicators are exceeded the professional would receive a \$10,000 bonus.

3. Weight and Rate System

This system is more complicated and it must be determined in advance by the CEO and the fundraising professional.

Assume that the organization does annual fund, special events and major gifts as their overall fundraising program. In conjunction with the Executive Director or CEO determine how much time should be spent in of these areas. For example annual fund is considered most important because of cash flow issues so you should spend 60% of your time in AF, 10% in special events and so on. A rating system of 1 to 4 (4 being the highest) is used to evaluate performance and at the end of the year, you are rated in each of the fundraising areas.

It works like this:

Annual Fund 60%. X Rate 3=180
Special Events 10% X Rate 3= 30
Major Gifts 20% X Rate 3=60
Planned Giving 10% x 3 = 30

Total Points (Maximum of 400) 300

Predetermine the numerical spread:

100 - 150 = 5% incentive
150 - 250 = 7%
250 - 350 = 8%
350 and over = 12%

The incentive can be based on a percentage of salary or a pooled approach. The incentive pool can be populated based on a 3 year rolling average of funds raised, funds in excess of goal, or based a rolling average of the 3 fundraising goals.

This system is based on achievement of goals, value to the organization, time of the development professional and pre-determined financial goals. It is more complicated but in the more sophisticated development departments, this type of system works well.

Q. What does it mean that the organization must have an incentive compensation policy and plan?

A. This means that the practice of awarding bonuses or other incentive compensation for achieving mutually agreed-upon, pre-existing objectives related to an AFP member's responsibilities must apply to all or most executive positions within the organization and not just to members of the development staff.

Q. How does this apply to a business member's incentive compensation policy and plan?

A. Where an AFP business member is involved, similar incentives must be available to other customers/clients, and any third party payments to the AFP member must be fully disclosed to the customer/client (see Standards 21 and 23).

Finder's fees

Q. What constitutes a finder's fee under the AFP code?

A. A finder's fee is a fee paid for bringing a donor or revenue in any form to a not-for-profit organization or an AFP member.

Q. What do the AFP Standards of Professional Practice say regarding finder's fees?

A. Standard No. 21 states that members shall not accept finder's fees. Standard 23 states that members shall neither offer nor accept payments or special considerations for the purpose of influencing the selection of products or services. Standard No. 24 states that members shall not pay finder's fees and shall take care to discourage their organizations from making such payments.

Q. Is it acceptable under the Code to pay a finder's fee to an attorney or financial advisor for referring a potential donor to a not-for-profit organization?

A. No. That would be a violation of Standard No. 24.

Q. Is it acceptable under the Code to pay a finder's fee to someone for referring a potential sponsor or advertiser to a not-for-profit organization?

A. No, Standards 21, 23, and 24 cover all forms of revenue generated by an AFP member.

Conflict of interest

Q. What constitutes a conflict of interest under the AFP Code?

A. Standards 2, 3 and 4 govern conflicts of interest. A typical conflict of interest exists whenever an AFP member (or someone in that member's immediate family) has a formal relationship with an actual or prospective donor or an interest in a firm that is an actual or potential vendor to the AFP member (or that member's organization). More specifically, the following are examples of conflicts of interest under the AFP Code:

- Failing to report to one's employer knowledge of being a beneficiary of a donor's estate plan.
- Holding an ownership interest in a vendor firm that provides products to one's employer without reporting such interest to the organization's leadership.

Q. When is a fundraiser in conflict with his or her organization or donor?

A. A fundraiser is in conflict with his or her organization or donor when an actual or potential conflict of interest, or the appearance of a conflict of interest, exists and the member does not clearly and adequately disclose that actual, potential, or appearance of, conflict to his or her organization.

Q. Why does AFP restrict a development officer from serving as an executor of an estate or receiving compensation from an estate in which the organization employing the officer is a beneficiary?

A. Standard 3 includes those restrictions because it is impossible to avoid the appearance of a possible conflict of interest in such a situation. An AFP member may not receive compensation from the estate of a donor to any organization for which the member has worked, for services performed as a financial advisor, executor or other officer to the donor's estate. AFP members may receive distributions from the estate of relative who has made minor contributions to the AFP member's organization if the relationship was not the result of the member's employment in any not-for-profit organization at any time. In such case, notification to the employing organization is still advised to avoid any potential conflicts of interest.

Donor information

Q. If an AFP member is asked to provide donor names, gift information to the Board Chair, Development Chair, other board members, or CEO or other employees of the AFP member's organization, is it a violation of the AFP Code to provide the information?

A. No, if the AFP member determines that the individuals have a demonstrable need to know. In such a case, the AFP member must comply with the good stewardship requirements of the AFP Code set forth in Standards 10 and 17, and caution individuals that the information is confidential and is not to be shared with others. Such information may not be shared if directions to the contrary have been received from the donor.

Donor Recognition

Q. If an organization agrees to name a building as donor recognition and the donor subsequently is convicted of a crime, may the organization revoke the donor recognition by removing the name from the building?

A. Neither the AFP Code nor the Donor Bill of Rights speaks to the question of illegal activity by a benefactor, so it would not be a violation of either document *either* to remove the donor's name *or* leave it in place. There are no hard-and-fast rules to guide a decision in such a situation, but here are some factors to consider:

- 1. The nature of the criminal activity.** If the acts committed by the criminal have a connection with the mission of the organization (such as a pedophile who wants to be a donor to a boys and girls club, or a drug dealer who wants to be recognized for a gift to an addiction-prevention organization), the implications for the organization's reputation may be more severe than if the criminal activity is not related to the organization's mission (such as a gift for cancer research by a person convicted of stock manipulation).
- 2. Whether the convicted persons have paid their penalties.** Except in rare circumstances, organizations should avoid sitting in judgment of people who have served their time, paid their penalties, and are now off to start a new and presumably cleaner life.
- 3. Whether the terms of the gift are silent on the subject of whether and how a naming right can be revoked.** Some organizations have a policy that prohibits naming structures after living persons. Such organizations want to make sure a donor dies clean before they connect the name to the organization.

AFP members may wish to have their board consider addressing the question in their organization's gift acceptance policy, but they are advised to proceed with caution. If such a policy is not drawn carefully, it may reach farther than initially intended and cause more problems than it solves. Ultimately, since the combination of facts in specific situations can vary greatly, each situation must be judged on the particular facts of the case.

Use of funds

Q. My institution wants to use a restricted gift for purposes other than the purpose for which the gift was solicited. Is this acceptable under the AFP Code?

A. No, it is a violation of the AFP Code to use monies from a restricted gift for a purpose other than the purpose for which it was solicited. You should advise your institution that such a use would violate the principle of honoring donor intent and would be a violation of the AFP Code of Ethical Principles (Standards 14, 15 and 16). You should strongly urge your institution not to allow such action.

If your organization wants to request a change regarding the restricted use of a gift, you must communicate with the donor about the gift. If the donor has passed away, the appropriate next step is to communicate with the donor's family/living heirs. If no family members are alive, then you should contact the state executor to request the change. If none of the above exist, you can seek guidance from the courts or legal system.

AFP Code Enforcement Process

Q. When can the AFP enforcement process be triggered?

A. The enforcement process can be triggered at any time that the AFP Ethics Committee receives a signed complaint alleging that a violation of the AFP Code has occurred. The AFP Ethics Committee may also initiate a complaint at the Committee's discretion.

Q. Can a non-member of AFP with a CFRE or ACFRE credential be charged with a violation of the Code?

A. Yes, because all persons who hold an AFP-sanctioned credential must sign an enforced Code of Ethics. If a certificated person has signed the AFP Code, that person has sworn to uphold the AFP Code as a condition of receiving the credential.

Q. What is the enforcement process?

A. Anyone may submit an ethics query or file a complaint alleging violation of the AFP Code of Ethical Principles by an AFP member or person holding an AFP-sanctioned credential, whether or not the person lodging the query or complaint is a member of AFP. Inquiries about actions of members are held strictly confidential and may be made only to the Office of the President and CEO. Before filing a complaint or submitting an ethics query, you may call the Office of the President and CEO (1-800-666-3863) and have a conversation to see if you wish to proceed. An ethics query is a means for inquiring whether a practice warrants filing a complaint alleging a violation of the AFP Code and for requesting assistance from the Ethics Committee to resolve

an issue or practice of concern without invoking the formal Code enforcement process. The goal is to bring about improvement in professional practice without having to resort to enforcement proceedings.

An ethics query may be lodged via a confidential letter or memorandum to the Office of the AFP President and CEO identifying the person against whom the ethics query is lodged and describing the incident or practice that is of concern. A complaint is a formal allegation of violation of the AFP Code of Ethical Principles and must be filed on a signed AFP Complaint Form sent to the AFP President and CEO or the Chair of the Ethics Committee. The filing of a complaint initiates the AFP Code enforcement procedure. In filings, AFP requires complaining parties to agree that, upon request of the AFP Ethics Committee, the complainant will give personal testimony in the presence of the person against whom the complaint is lodged.

Once a complaint is filed, it is reviewed by the AFP Ethics Committee. If the Committee finds that the complaint alleges a violation of the Code of Ethical Principles and is supported by sufficient documentation, the Committee Chair sends written notification of the complaint to the person against whom the complaint is lodged, requesting the member to respond in writing to the complaint. If the person against whom the complaint is lodged responds to the complaint, the Ethics Committee reviews the information presented in the response.

If the Committee determines that there are grounds to support a charge of violation of the Code and that efforts to persuade the person to cease and desist have failed, the Committee may decide to hold a hearing to (1) determine whether a violation of the Code of Ethical Principles has occurred and (2) decide what disciplinary action, if any, is appropriate. Penalties for violation of the Code can include:

- A letter of reprimand
- A letter of censure and prohibition against holding national office in AFP
- Suspension of membership in AFP for a stated period
- Permanent expulsion from AFP membership, including withdrawal of any AFP-sanctioned credential

All communications and records regarding questions of ethical misconduct are held strictly confidential in the Office of the President and CEO.

You may view the AFP's ethics enforcement procedures in their entirety on the AFP website (www.afpnet.org).

Q. Can a member facing an ethics inquiry thwart the enforcement process by terminating their membership (or letting it lapse) in the midst of the inquiry?

A. No, if an AFP member is the subject of a formal government legal proceeding and/or AFP enforcement proceeding, the member will be considered an active member and/or certificiant until the AFP enforcement proceeding has been completed, whether or not the member attempts to voluntarily resign or terminate membership by failure to renew and/or apply for recertification.

Q. What is the chapter's role in enforcement?

A. The chapter does not have a role in the enforcement of specific cases. The chapter's role with respect to fundraising ethics is to inform and educate members, their organizations, and the public about the provisions of the AFP Code and enforcement process, and to advise persons who wish to make a query or complaint about a specific situation to direct their communications about the matter to the President and CEO by telephone, fax, mail, or email.

Q. Where can I find the enforcement process and complaint form?

A. You can find a description of the enforcement process and an AFP Complaint Form on the AFP website (www.afpnet.org) or you may obtain a copy by contacting the AFP President and CEO by telephone, fax, mail, or email.

Q. Who may file a complaint?

A. Anyone may file a complaint alleging a violation of the AFP Code by an AFP member or a person holding an AFP-sanctioned credential. The complaint must be written on an AFP Complaint Form and signed by an individual.

Q. How long does a complaint take to process and work through the AFP Ethics Committee process?

A. The length of time can vary, depending on the nature of the complaint, the completeness of submitted documentation supporting the complaint, the number of persons involved in the complaint, the promptness of responses to Ethics Committee communications by the complainant(s) and the person against whom the complaint is lodged, whether a hearing must be held, and other factors. A complaint that does not require a hearing can usually be processed within six months. A complaint that requires a hearing can require from six months to a year or more to process. To be considered, a complaint must be filed with the AFP President and CEO within three years after the acts in the alleged violation occurred.

Information from the
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