



SAMPLE CASES FOR ETHICS EDUCATION

JUNE 2007

Table of Contents

<i>Case 1. Trust Revoked</i>	3
<i>Case 2. Helping the Needy</i>	4
<i>Case 3. Moveable Assets</i>	5
<i>Case 4. The Big Favor</i>	7
<i>Case 5. Building on Principle</i>	8
<i>Case 6: Sharing the Wealth</i>	9
<i>Case 7. Bonus Points</i>	10
<i>Case 8. Like Mother Like Son</i>	11
<i>Case 9. Ringing Up New Contributions</i>	12
<i>Case 10. Not-So-Good Form</i>	13
<i>Case 11. Share and Share Alike</i>	15
<i>Case 12. Rewarding Excellence</i>	17
<i>Case 13. To Accept or Not to Accept</i>	18
<i>Case 14. Internet Profits and Nonprofits</i>	20
<i>Case 15. Finding Help</i>	21

Case 1. Trust Revoked

In your old job with a highly regarded, financially stable organization, you developed a close working relationship with an elderly couple who set up a revocable trust with the organization. You then move to a new organization whose financial situation is somewhat shaky. Several months later the couple comes to you and says that because they have such confidence in your ability to look after their interests, they want to revoke the original trust and set up a new one through you with your new organization.

A. What should you do?

1. Accept the offer on behalf of your new organization.
2. Reject the offer.
3. Ask the CEO of your new organization to make the decision.
4. First clear the offer with the general counsel of your new organization to be sure the trust can be revoked legally.

Answer: Reject the offer. Accepting the offer violates numerous AFP Standards of Professional Practice including Standards #1, #2, and #3, but most directly #4 which prohibits exploitation of relationships to benefit the member or the member's organization.

B. Suppose the couple proposed to make a major gift to your new organization without revoking the old trust. What should you do?

1. Accept the offer on behalf of your new organization.
2. Reject the offer.
3. Ask the CEO of your new organization to make the decision.
4. Ask the couple to deal with someone else in your new organization.

Answer: Ask the couple to deal with someone else in your new organization, and disclose your prior relationship with the couple to your current CEO. There is nothing fundamentally problematic in this scenario, but there is a danger of an appearance of impropriety, and the possibility of an appearance of misuse of information obtained while in the employ of your former organization. In very small organizations, it may not be possible to deflect the gift transaction to another individual, but in all other instances, this is the best option. Failure to do so runs the risk of violating Standard #1 and Standard #2. With the couple's permission, disclosure to the original organization is also advisable.

Case 2. Helping the Needy

You are director of an international emergency relief program. Within one month, three large scale disasters occur — an earthquake in Mexico, a hurricane in the Pacific, and a flood in the U.S. Because of the severity of the disasters and the thorough, constant media coverage, donations have been pouring in. Most gifts are designated to either the earthquake or the hurricane victims; however, many people in the U.S. have lost their homes in the flood and are in desperate need of help.

As time passes, you see that the relief needs of the hurricane and earthquake victims will be easily met by 60% of the relief money coming in, but more than 95% of the money is designated by the donors for the hurricane and earthquake, leaving you with insufficient funds to meet the needs in the U.S.

A. Would it be a violation of the AFP Code to use some of the donations designated for the earthquake or hurricane victims to assist victims of the flood?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. This would be a violation of Standard #9 – Members shall take care to use contributions in accordance with donors' intentions.

B. To comply with the Code, should you return the donations that were not needed in the areas for which they were designated?

1. Yes
2. No
3. It depends
4. Don't know

Answer: It depends. A member could contact a donor, explain the circumstances and request permission to use the funds for a different disaster (Standard #11). If permission is not provided, donations should be returned in order to comply with the Code.

Case 3. Moveable Assets

You have built an excellent reputation as development officer for a fine arts organization in a small city. You've been able to enlist the support of many new donors and have cultivated numerous major gifts. You've been offered a higher paying job at the city hospital.

A. Suppose you have been cultivating a wealthy philanthropist, Mrs. X, who has no real interest in the arts. Mrs. X has numerous health concerns. She is likely to respond favorably to a request for support of the hospital primarily because she has high personal regard for you. Would it be a violation of the AFP Code of Ethical Principles to ask Mrs. X to make the gift to the hospital instead?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. It would be a violation of the Code. Standard #13 states: "Members shall adhere to the principle that all donor and prospect information created by, or on behalf of, an organization is the property of that organization and shall not be transferred or utilized except on behalf of that organization."

In accordance with this standard, the prospect information you have gathered about Mrs. X belongs to your old organization and should not be utilized on behalf of any other organization.

If your personal relationship with Mrs. X pre-dated your employment with the arts organization, then it would not be a violation to begin new discussions with her once you have moved to your new organization, but bear in mind that Standard #4 forbids exploiting any relationship with a donor, prospect, volunteer, or employee to the benefit of the member's organization. AFP recommends in this situation that you declare your previous relationship with the donor to your CEO or supervisor.

B. Suppose you have worked hard to write original text for planned-giving brochures that have been successful for the arts group. Would it be a violation of the Code to copy from them when you create the brochures for the hospital?

1. Yes
2. No
3. It depends
4. Don't know

Answer: It depends, on what and how much you "copy." Standard #13 states: "Members shall adhere to the principle that all donor and prospect information created by, or on behalf of, an organization is the property of that organization and shall not be transferred or utilized except on behalf of that organization."

It would be a clear violation of the Code to copy text, slogans, taglines, or special terms you created for the old organization. The general tone, approach, and technical terms of a planned giving brochure are more difficult to define and measure, and therefore it may be more difficult to discern whether similar examples of such matters have been copied. The safest course is to steer clear of text and designs you have used before, or to seek approval from your prior organization. (Sometimes, there are agreements as to who owns the text.) In many cases, they probably would not be effective for the new organization.

C. You know that the hospital and the arts group solicit the same type of donors, although for entirely different purposes. Would it be a violation of the Code to make a list of donors to the arts organization from memory to add to the prospect list for the hospital?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. In accordance with Standard #13, all donor and prospect information you have gathered for your old organization must be used only for that organization. That principle applies whether you keep the list of donors in your head, in a notebook, or in a computer file.

Case 4. The Big Favor

It is April 15 (U.S. tax filing deadline), and you are in your first week as director of development for a university when you get a phone call from the university's largest donor. The donor is the chairman of a Fortune 500 corporation who has given several million dollars to the university and already has a building named for him. He announces that his tax advisor says he needs to make another donation for the previous year and that he is sending over a check for \$100,000. He asks you to prepare a letter of acknowledgment dated prior to last December 31. Before you can think of what to say, he hangs up.

A. What should you do?

1. Prepare the letter of acknowledgment thanking the donor.
2. Call the donor back and tell him you cannot accept the gift on these terms.
3. Discuss the matter with your hospital CEO.
4. Ask the hospital CEO to decide what should be done.

Answer: Discuss the matter with your CEO. What the donor has proposed is a violation of the law, which is paramount. Accepting the gift on the terms proposed would also be a violation of Standards #2 and #5. This is your first week on the job. Encourage your CEO to make the call; if he/she won't, make the call yourself.

B. Suppose you inform your CEO about the offer and the CEO says, "Don't worry about it, I'll write the letter." What should you do?

1. Warn the CEO that it would be a violation of the AFP Code to comply with request.
2. Warn the CEO that it would be illegal to comply with the request.
3. Ask the chief financial officer for an opinion.
4. Keep quiet; this is a matter between the CEO and the donor.

Answer: Warn the CEO that it would be illegal to comply with the request, as well as a violation of the AFP Code. This is a clear violation of Standards #2 and #5.

C. Suppose that upon further investigation you learn that occasionally in the past the university has done similar favors for some of its large donors. What should you do?

1. Continue the practice; it's working.
2. Warn the CEO that it would be a violation of the AFP Code to continue this practice.
3. Warn the CEO that it would be illegal to continue this practice.
4. Resign your position.

Answer: Warn the CEO that it would be illegal to continue this practice, as well as a violation of the AFP Code. Fundamentally, the same explanation that applies to the previous question also applies here. To protect one's integrity, the choice to resign is an option for consideration.

Case 5. Building on Principle

You are the vice president for advancement and alumni affairs of a small college. After many months of careful cultivation, you succeed in obtaining a pledge from a famous alum for the largest gift in the college's history. The only catch is, the alum insists that the college put his name on a building that was named for a previous donor (now deceased) as a condition of that alum's gift. You try to persuade the new donor to change his mind, but the donor is insistent.

A. Should you refuse this gift?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. You have a responsibility to vigorously and ethically raise funds for your college while ensuring that the intent of all donors is honestly fulfilled. Presumably the naming of the building (in perpetuity) was a part of the original gift agreement with the previous donor, and to make any changes would be a violation of Standards #9 and #11.

You must review the original gift agreement and may wish to get advice from counsel if the gift agreement is complex or if one was not written. Assuming the Board approves significant naming opportunities, you will need to take the matter to your Board with the advice that the original donor's name remain on the building.

B. Suppose the new donor agrees to a proposal to name the building jointly for both donors. Would this arrangement pass muster under the "donor consent" standard of the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No. The proposal on its own would not pass the "donor consent" test. The guideline to Standard #11 notes that a member may meet with surviving family members or representatives to discuss potential alteration in the original conditions of a gift.

C. Suppose the college president and the Board of Trustees vote to rename the building for the new donor. Should you resign?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. For this scenario, we will assume that the president and Board have the ultimate authority to accept or decline a gift (certainly a gift of this magnitude). If the Board and President are in breach of the terms of the donor's gift agreement and/or are not complying with approved donor recognition and naming policies, you should resign from the college. You will not be able to adhere to the AFP Code nor practice your profession with integrity, honesty, and truthfulness at this institution.

Case 6: Sharing the Wealth

As the chief development officer for a religious organization, you receive an offer from a long distance telephone company. For each member of your organization who switches to the company's long distance service, the company will make a donation to your organization, or to any other charity designated by the member, equal to 3% of each monthly payment for long distance service. The company promises that its rates will never be higher than the average of the rates of the leading long distance telephone companies. All that your organization must do is to help publicize the offer through your newsletter and normal channels of communication with members.

A. Would this offer be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. This is an advertising/promotional arrangement being proposed by a for-profit company with no philanthropy involved. The religious organization is not providing the lists of its constituents or any other privileged information. Therefore, there is no violation of the Code.

B. Suppose the company offered to pay your organization a fixed fee (\$25) for each member who switches to its services for at least one year and who spends at least \$25 per month on long distance service. Would this offer pass muster under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. Acceptance of this offer would not violate the Code as it also would be payments to the religious organization as the result of a promotional/advertising arrangement.

Case 7. Bonus Points

You are the director of development of a biomedical research organization. The organization's Board decides to establish a bonus plan for all senior managers, based on performance of responsibilities. Your bonus is to be 10% of your annual salary if you bring in 10 new corporate sponsorships and another 10% of your annual salary if you bring in at least 10 major gifts of \$10,000 or more.

A. Would this bonus plan be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. The AFP Code provides that members may accept performance-based compensation, such as bonuses, provided such bonuses are *not* based on a percentage of contributions (Standard #17). In this case, the bonus is a fixed amount and it is based upon the number of sponsorships and major gifts that you bring in, not a percentage of the amount of the contributions.

B. Suppose that instead of the plan above, the size of the bonus was based on your performance in three areas:

- Number of new volunteers recruited
- Number of new major gifts received
- Exceeding the amount raised the previous year in the organization's annual fund

Could such a bonus plan be acceptable under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes, as there is no violation of Standard #17. This is an example of a performance-based compensation plan that provides financial and non-financial indicators that are acceptable under the Code.

C. Suppose that the bonus was a fixed amount (5% of your base salary) and was based on achieving three performance targets:

- Recruiting 50 new volunteers
- Successfully soliciting 10 new major gifts
- Growing the organization's annual fund receipts from the previous year

Would this bonus plan pass muster under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. There is no violation of the Code (Standard #17), and the criteria are not based on a percentage of contributions.

Case 8. Like Mother Like Son

As the chief development officer for a youth organization, you learn from a donor that the son of the chair of your Board has been calling donors to the organization to solicit business for his investment company.

A. What should you do?

1. Inform the chair of the Board that the AFP Code of Ethical Principles forbids this practice and it must stop.
2. Ask your CEO to advise the chair of the Board that this practice must stop.
3. Inform your CEO that the AFP Code does not speak to this practice.
4. Keep quiet.
5. Other

Answer: Other. Nothing improper is necessarily going on here. The whole situation could be a coincidence. However, consistent with Standard #2, it would be advisable for you to advise your CEO that the activities of the son of the Board chair could give an appearance of impropriety or misconduct and that consequently, it might be advisable to have her son cease soliciting business for his investment company from donors.

B. Suppose that investigation reveals that the son obtained the list of donors from the printed program of your organization's recent recognition dinner. Would this practice be acceptable under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. The information contained in the program cannot be considered privileged or confidential information, since it was publicly available information. (Standard #13)

C. Suppose your investigation reveals that the Board chair has been giving the names of donors and acquaintances to her son to help the son get his business started. What should you do?

1. Inform the Board chair that the AFP Code of Ethical Principles forbids this practice and it must stop.
2. Ask your CEO to advise the Board chair that this practice must stop.
3. Inform your CEO that the AFP Code does not speak to this practice.
4. Keep quiet.
5. Other

Answer: Ask your CEO to advise the Board chair that this practice must stop. Providing her son with the names of *donors* to the organization is proscribed by the AFP Code (Standard #12) and must stop.

Case 9. Ringing Up New Contributions

You are the chief development officer for a nonprofit organization serving underprivileged children, and a marketing firm offers to provide telemarketing services to raise money for your organization's annual fund in return for being compensated with 50% of all contributions generated.

A. Would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No. Standard #18 reads: "Members shall not pay finder's fees, or commissions or percentage compensation based on contributions, and shall take care to discourage their organizations from making such payments."

The arrangement clearly compensates the marketing firm based on a percentage of all contributions. This would put the marketing firm in conflict because they may be seeking funds in part for personal gain (the 50% of contributions generated).

B. Suppose the marketing firm offered to charge a fee for each completed telephone call, whether or not the call results in a contribution. Would this arrangement be acceptable under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. This is acceptable because the fee is charged based upon work that the firm proposes to do and is not based on percent of funds raised. Fees paid should be reasonable and performance should be monitored.

C. Suppose the marketing firm proposed receiving a small fee for each completed call plus 7% of all contributions generated from the telemarketing program. Would this arrangement be acceptable under the AFP Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No. As with part A of this case, the scenario violates Standard #18 because as stated in the Standard, it is unacceptable to pay fees that are based on a percentage of philanthropic contributions raised.

Case 10. Not-So-Good Form

You are a development officer in a three-person development office. One day while reviewing your organization's government-required federal revenue agency reporting form (such as the Form 990 in the U.S., or the T-3010 in Canada) you discover a sizable difference between the total amount of donations reported on the Form and the amount published in the institution's campaign publicity. When you ask the Chief Financial Officer about the discrepancy, the CFO replies, "Don't worry, the Form is only an informational return. The revenue agency does not audit it."

A. To be consistent with the AFP Code of Ethical Principles, what should you do?

1. Inform the Chief Development Officer about the discrepancy.
2. Tell the CFO that the Form must be filled out correctly.
3. Inform the CEO that the Form must be filled out correctly.
4. Ignore the matter because the Form is not your responsibility.
5. Other

Answer: You have a responsibility to either 1) inform the Chief Development Officer about the discrepancy or 2) tell the CFO that the Form must be filled out correctly. This reasoning is based on Standard #5, which reads: "Members shall comply with all applicable local, state, provincial, federal, civil and criminal laws."

Standard #15 also reads: "Members shall, when stating fundraising results, use accurate and consistent accounting methods that conform to the appropriate guidelines adopted by the American Institute of Certified Public Accountants (AICPA) for the type of organization involved." (*In countries outside the United States, comparable authority should be utilized.)

Since you see a discrepancy in the reporting of financial information, it is your responsibility to use channels within the organization to bring the organization into compliance with the federal laws, which are paramount to any ethical considerations.

B. Suppose the Form is prepared each year by the organization's accounting firm. Under the AFP Code of Ethical Principles, would this arrangement absolve you from any duty in connection with the Form?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No, this would not absolve you of your obligation regardless of who prepares the Form. The same standards apply as in part A of this case.

C. Suppose you bring the discrepancy to the attention of the CEO, and the CEO says, “Don’t worry about it, I will take full responsibility.” To be consistent with the AFP Code, what should you do?

1. Inform the Board chair that the discrepancy violates the AFP Code.
2. Keep quiet but make a record of the CEO’s answer.
3. Not worry about it; the practice does not violate the AFP Code.
4. Ignore the matter because the practice is not your responsibility.
5. Other

Answer: You could do a few things in response to this situation. You could inform the CEO that it is a violation of the law to sign something that is knowingly incorrect, or you could explore alternate routes within the organization such as informing the Board chair that the discrepancy violates the AFP Code. You should begin by discussing the situation with your immediate supervisor. If there is no response inside the organization, you can take your case to Federal officials or go public, in which case you may be protected by the whistle-blower protections in your resident country. In the U.S., Sarbanes-Oxley may be applicable. However, you may also decide that you do not want to be a part of an organization that does not take accounting of its information seriously.

Case 11. Share and Share Alike

Two small arts organizations each have struggled to generate sufficient public awareness for a community-wide annual fund campaign. The director of development of one organization suggests that if the organizations pool their resources, they can maximize their visibility in the community, minimize their individual costs, and increase their chances for a successful campaign.

A. If the two organizations worked from their own donor lists, would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. Two organizations may have a joint campaign and solicit from their own lists as long as each organization has the same clearly defined regulations, guidelines, policies, and procedures.

B. If the two organizations pooled their lists and hired a telemarketing firm to conduct a joint campaign, would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: It depends. It is the responsibility of the member organizations to “respect the wishes and needs of the constituents, and do nothing that would negatively impact their social, professional or economic well-being” (Guideline 1.c), so the organizations must approach the joint campaign with caution. They must “effectively disclose all potential and actual conflicts of interest” (Standard #3). Therefore, the Code would allow this joint campaign as long as the constituents are clearly informed about the relationship between the two organizations.

C. If the two organizations each solicited from their own lists in a joint campaign, would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. The donor must also be clearly informed about the destination of the gift. According to Standard #7, the organizations must “take care to ensure that all solicitation materials are accurate and correctly reflect their organization’s mission and use of solicited funds.” This is particularly important in a joint campaign, because constituents need to understand the nature of the campaign and which organization they are supporting. Standard #9

further reinforces this principle: “Members shall take care to ensure that contributions are used in accordance with donors’ intentions.” The organizations also should follow Standard #10 Guidelines regarding written policies for endowment funds, annual reporting, planned gifts, donor recognition, investments, and administration of restricted funds.

D. Would it be permissible under the Code for organizations to work together in a fundraising drive?

1. Yes
2. No
3. It depends
4. Don't know

Answer: It depends. If there is disclosure to constituents, organizations may be able to work together in a fundraising drive. Standard #14 states that “members shall give donors the opportunity to have their names removed from lists that are sold to, rented to, or exchanged with other organizations.” The organizations must have a clear stated policy that they will not share donor information. If the organizations did share lists, without disclosure to donors, it would be a violation of Standard #12: “Members shall not disclose privileged or confidential information to unauthorized parties” and Standard #13: “Members shall adhere to the principle that all donor and prospect information created by, or on behalf of, an organization is the property of that organization and shall not be transferred or utilized except on behalf of that organization.”

Case 12. Rewarding Excellence

Sally has done such an outstanding job as CEO in building the financial support for her environmental organization that the Board of Directors thinks she should be rewarded. In executive session, they vote unanimously to raise Sally's salary by 25%.

A. Would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. There is nothing in the case to suggest that the increase is tied to the raising of a specific number of dollars. Sally is being recognized for "building the financial support" of her organization. That recognition may include improved communications, cultivation, entrepreneurial activities, and so on. The raise in no way violates any aspect of the AFP Code of Ethical Principles.

B. If the reward were a one-time bonus instead of a salary increase, would the ethical situation be any different?

1. Yes
2. No
3. It depends
4. Don't know

Answer: It depends. The ethical situation related to the bonus may be problematic if Sally has been singled out for such a bonus. Standard #17 of the AFP Code says: "Members may accept performance-based compensation, such as bonuses, provided such bonuses are in accord with prevailing practices within the members' own organizations, and are not based on a percentage of contributions." Thus, if Sally's bonus reflects prevailing practices within her organization, there appears to be no cause for ethical concerns.

Case 13. To Accept or Not to Accept

You are a new director of development for a social sector organization, and you find that your organization does not have a policy regarding acceptance of gifts by the development staff. You decide you want to establish a gift policy that will be acceptable under the AFP Code of Ethical Principles.

A. Under the AFP Code, which of the following policies would be acceptable?

1. No member of the development staff may accept more than a token gift from a donor, prospective donor, sponsor, or advertiser who became known to the member as a consequence of a member's current or past employment.
2. No member of the development staff may accept a gift from a donor, prospective donor, sponsor, or advertiser, under any circumstances.
3. Gifts more than a token gift from a donor, prospective donor, sponsor, or advertiser must be disclosed to the CEO and Board.
4. Gifts of more than a token gift from a donor, prospective donor, sponsor, or advertiser will be considered on a case-by-case basis and must be approved by the CEO.

Answer: 1, 3, and 4 would be acceptable. Standard #3 requires AFP members to disclose all potential or actual conflict of interest, and a gift from a donor represents at least a potential conflict of interest. Answers 1, 3, and 4 would be acceptable because they each include a requirement of disclosure.

B. What would be a more workable gift policy that would be acceptable under the AFP Code?

Answer: A more workable policy would include a specific definition of an acceptable "token gift" -- for example, a specific dollar amount -- and would specify the criteria to be considered by the CEO and Board and deciding whether or not a larger-than-token gift to a fundraiser would be acceptable (e.g., gift from a donor who is a relative or a long-term friend).

C. Suppose an elderly major donor has bought you a gold ring as a thank-you gift for helping arrange a planned gift of \$1 million to your organization. You know the donor and know that the donor would probably be offended if you turned down the gift. According to the AFP Code, what should you do?

1. Thank the donor and explain that the AFP Code forbids accepting gifts from donors.
2. Thank the donor and explain that AFP Code requires that all gifts must be disclosed to the CEO and the Board, and you may not be able to accept.
3. Accept the gift.
4. Use your best judgment. The Code is silent on the subject.
5. Other (specify)

Answer: Number 2 is the best answer—thank the donor and explain that the AFP Code requires that all gifts must be disclosed to the Board. Standard #3 of the Code only requires AFP members to disclose all potential and actual conflicts of interest. It does not specify disclosure to the Board, but, as the governing body of the organization, the Board is the appropriate entity for the disclosure.

Standard #4 also applies. It states that members shall not exploit any relationship with a donor, prospect, volunteer or employee to the benefit of the member or the member's organization. One reason for the disclosure requirement in Standard #3 is to ensure that no one exploits a relationship.

Answer number 1 is incorrect because the AFP Code does not impose an absolute prohibition on gifts from donors. At the same time, answer number 3 is incorrect because the Code requires disclosure of a gift (as the source of a potential conflict of interest), and answer number 4 is incorrect because the code is NOT silent on the subject.

Case 14. Internet Profits and Nonprofits

As the director of development of a two-person fundraising operation, you want to use the Internet to streamline your operations. You contact several Internet fundraising firms and get the following proposals:

A. One firm offers to process donations for a stepped fee: \$1 for donations of \$10 or less, \$2 for donations of \$11 to \$25, \$5 for donations of \$26 to \$100, and \$10 for donations of more than \$100. Under the AFP Code, is this arrangement acceptable?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. Such fees are standard practice and the position paper (http://www.afpnet.org/ka/ka-3.cfm?content_item_id=1228&folder_id=899) states that a donor-initiated transaction involving the transmission of a donation by a website operator to a charity does not fall within the purview of the AFP Code and Standards.

B. Another firm offers to process your donations for free in exchange for receiving your prospect list for use in soliciting for other organizations. Would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No. Standards #12, #13, and #14 apply here. This information is confidential, and donors must have the opportunity to have their names removed from lists exchanged with other organizations.

C. Another firm offers to conduct an Internet auction to raise money for your nonprofit organization. The company charges a standard auctioneer's fee of 10% of the funds raised, just as it does in its non-Internet auctions. Would this arrangement be acceptable under the AFP Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. Under U.S. and Canada tax law, the purchase of an auction item does not qualify for a tax deduction unless the amount paid exceeds the fair market value. At that point, the fee must be reasonable, and it must be based upon the value of the services rendered and not the percentage of contributions. It is important to consult the tax laws in your country to determine if this situation violates the AFP Code.

Case 15. Finding Help

The Orthopedic Hospital Foundation is fully aware of the AFP ethical guidelines relevant to finders' fees. The Hospital Foundation is working with a planned giving consultant who is able to provide legal, tax, and planned giving services. This consultant works with potential donors the Foundation identifies and directs donors to the Foundation. The consultant's process is to ask the potential donor to select a charity from a list of about 200. If the potential donor is interested in children and/or disabilities, the potential donor may be given the name of Orthopedic Hospital Foundation as a potential beneficiary of the potential donor's gift.

Orthopedic Hospital Foundation does not accept a gift without meeting first with the potential donor and explaining the history and mission of Orthopedic Hospital and inviting the potential donor to tour the hospital's facilities, if possible. In addition, the Foundation ensures that the potential donor knows that if he or she were to make a donation to the Foundation, the Foundation would be paying some of the transaction fees for this consultant to complete the gift.

A. If the fee paid is not based on a percentage of the gift, would this arrangement be a violation of the Code of Ethical Principles?

1. Yes
2. No
3. It depends
4. Don't know

Answer: No. The Orthopedic Hospital's Foundation approach does not present an ethical problem. In this situation it is not paying a finder's fee or a commission. The AFP Code recognizes that often there are brokers' fees in stock transactions and these do not constitute an ethical violation. AFP recognizes that these types of transaction fees are a cost of doing business. It is also important to note that the Foundation also discloses to the donor that transaction fees will be paid to the planned giving consultant.

B. Suppose the consultant's fee were based on the size of the gift. Would this arrangement be a violation of the Code?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. There is a fine distinction that makes this situation a violation of Standard #18. Further, Standard #16 is also violated, as the fee is based on the size of the gift (percentage compensation). Standard #16 prohibits percentage-based compensation for fundraising professionals. This standard also applies to fees paid to third parties hired by a nonprofit. Members should discourage their organizations from paying a fee to a third party for services based on a percentage of dollars raised.

C. If the planned giving consultant brought the Hospital Foundation a prospective donor whom the Hospital had not previously known about, would it be a violation of the Code to pay a finders fee to the consultant for completing the gift?

1. Yes
2. No
3. It depends
4. Don't know

Answer: Yes. In this case, the consultant would be bringing a donor to the attention of the Hospital, and whether or not the consultant performed other services to complete the gift, receiving a fee would be a clear case of a finder's fee prohibited by Standard #18 of the Code.

However, under guidelines to Standard #18, bona fide transaction fees are not subject to the standard.