

# **NONPROFIT BOARD SERVICE: AN INTRODUCTORY PRIMER**

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# AGENDA

1. Fiduciary Duties that Come with the Job of Director
2. Nonprofit Year in Review: Examining the typical fiscal year of the nonprofit, including typical board actions that occur along the way.
3. Organizational Learning & Institutional Knowledge: Twin Aspirations of all Nonprofit Boards
4. How to read the Form 990 Tax Return and Audited Financial Statements of a Nonprofit.

# FIDUCIARY DUTIES THAT COME WITH THE JOB

- All corporate powers must be exercised by or under the authority of and the affairs of the corporation managed under the direction of its board.
- A director must act:
  - 1) in good faith;
  - 2) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
  - 3) in a manner the director reasonably believes to be in the best interest of the corporation
- Conflict of Interest Management & Mitigation is of paramount importance!



# **NONPROFIT YEAR IN LEGAL REVIEW**

# ALSO KNOWN AS....

I've joined a nonprofit board...  
now what do I do!



**WHAT DO YOU MEAN?**

**I ALWAYS LOOK LIKE THIS**

# NONPROFIT YEAR LEGAL REVIEW

- **July 1** – Happy New Year!
- We'll examine a year in the life of a nonprofit.
- Our focus will be governance, internal controls, and compliance,
- We will break the year into quarters, assuming 4 Board meetings.
- Time permitting, we'll examine certain variable events.



# FIRST QUARTER

- Getting ready for your first Board meeting.
- Proper Notice to Board for Regular Meetings.
  - Not fewer than **10 days**, not greater than **60 days**
- Are you required to post a FOIA notice?
  - Written public notice of regular meetings at beginning of each “calendar” year
  - Must include dates, times, and places
  - Agenda must be published **24 hours** in advance (@office or on website)



# FIRST QUARTER

- What should your Board agenda look like?
  - Call to Order
  - Approval of Minutes
  - Chair's remarks
  - Committee Reports
  - Old Business
  - New Business
  - Executive Session
  - Adjournment
- Robert's Rules of Order
- Executive v. General Session
- Voting – Are proxies allowed?
- A good meeting doesn't exceed 1.5 hours!



# FIRST QUARTER

- Housekeeping – Directors need to commit!
  - Annual Pledge
  - Distribution of Board Books
  - Conflict of Interest Disclosure
    - IRS Promulgated COI Policy found at <https://www.irs.gov/instructions/i1023/ar03.html>
    - Sunshine is the best disinfectant!
    - Review annually
    - Form 990 inquires if you do this – See Part VI.

# FIRST QUARTER

- Committee Appointments
- Should Appointments be decided by Chairman or Board, or laid out in Bylaws?
- Can non-directors serve on committees?
- Committee charters

# FIRST QUARTER

- Executive Committee:
  - Useful for Boards with more than 9 members.
  - Typically made up of officers, and limited strictly to directors on Board.
  - What actions can be accomplished by Exec Comm?
  - How frequently should Exec Comm meet?

# FIRST QUARTER

- Finance Committee
  - Typically chaired by Treasurer
  - Should this committee be merged with Audit?
- Audit Committee
  - Beginning of year, better be ready!!!
  - Composition especially important
  - Who are good candidates to serve?

# FIRST QUARTER

- Nominating Committee
  - This is the most undervalued committee in the nonprofit world.
  - Board strength and diversity starts here!
  - Role of Past Presidents
- Other: Fundraising, Education, Community Outreach

# FIRST QUARTER

- **State Charitable Registration to Fundraise**
- Due by the 4<sup>th</sup> month concluding your tax year
  - Don't get the nasty gram from the Secretary of State.
- Information needed – similar to Form 990

# FIRST QUARTER - AUDIT

- Do you need an auditor?
  - Oversight
  - Federal grants
  - Donor requirements
- Audit Policy - What frequency do you need to do an audit?
- How quickly will you get materials to your auditor?
- Management Letter – shifting of responsibility



# END OF FIRST QUARTER - AUDIT

- Target Date to complete: September, consider setting your first Board meeting in September to be able to review the audit.
- They said what?  
**“Going concern”**
- Warning Will Robison!
- The Importance of **Internal Controls**



# SECOND QUARTER - FORM 990 PREP AND SUBMISSION

- For a NP with tax year end of 6/30, the Form 990 is due on **November 15!**
- Should the Board review or approve your Form 990?
- Do you have all of the policies listed in Part IV?
- Do you publish the Form 990 on your website?

# SECOND QUARTER – BOARD MEETING

- Time your meeting to keep audit report and Form 990 moving on time.
- How are you doing?
  - Statement of Activities (i.e. Profit and Loss Statement)
  - Statement of Position (i.e. Balance Sheet)
  - Cash Flow Statement Assessment of Actual to Budget.
- Strategic Plan Metrics

# SECOND QUARTER – CHARITABLE REGISTRATION STATEMENT

## REMINDER:

Charitable registration  
filing due for all states by  
October 31!



# SECOND QUARTER – FORM 990

## REMINDER:

Form 990 due for filing with the IRS by November 15, or you will need to seek first extension!



# SECOND QUARTER – GALA

- Who doesn't like Galas!?!
  - **Application of State taxes!?!**
    - Sales tax, Admissions tax, alcohol...
- Ticketing issues
  - Quid pro quo
  - How much is a gift?



# SECOND QUARTER – ACTIVATE YOUR FUNDRAISERS

- December is the month of giving!
- Success, however, starts much sooner.
- Not all gifts are good:
  - The challenge of the in-kind gift.
  - Does it carry liabilities or expenses?
  - Form 8283 and valuations.



# THIRD QUARTER – JANUARY

- Have you sent gift acknowledgement letters to your donors?
- Acknowledgment required for gifts over \$250.



# THIRD QUARTER – BOARD MEETING

- You should be breaking stride now, with a good sense of how your year is going.
- Executive Director and Finance Committee should begin the budget process for the next year.
- Activate your **Nom Com!**

# THIRD QUARTER - NOMINATION PROCESS AND TIMING

- Does your board establish guidance for eligibility and board/organization needs?
- Have you inventoried term limits on directors and officers?  
(Do you have term limits?)
- How do you find good candidates?

# THIRD QUARTER - ANNUAL BUDGET PREP AND APPROVAL

- List specific tasks with specific responsibility assignments
- Ensure that budget line items and accounting line items are in sync.
- Do you have policies that support budgeting process?
  - Expenditure limitations
  - Check writing authority

# THIRD QUARTER – FORM 990

## REMINDER:

Form 990 due for filing with the IRS by **February 15**, or you will need to seek second extension!



# FOURTH QUARTER – FORM 990

## REMINDER:

Form 990 due for filing with the IRS by **May 15**, or you are officially late!



# FOURTH QUARTER - ANNUAL MEETING

***Why should the last meeting of the year be the annual meeting?***

- Approval of Budget
- Assess Strategic Plan
- Election of Officers and Directors
- Performance reviews
- Celebrate your accomplishments and thank your stewards!

# VARIABLE EVENTS - AMENDING CORPORATE DOCUMENTS

- What do your Articles of Incorporation and Bylaws say about their amendment?
- Proper notice and procedure for proposed amendments by directors and/ or directors (Title 33, Chapter 31, Article 10).
- Provide copy of changes to IRS in your next filed Form 990.

# VARIABLE EVENTS – REMOVING DIRECTOR OR OFFICER

- What do your Articles of Incorporation and Bylaws say about the removal of a director or officer?
- To remove with or with cause?
- Notice requirements to call meeting.
- Other options?
- Filling in the vacancy.





# **ASSESSMENT OF NONPROFIT ORGANIZATIONS**

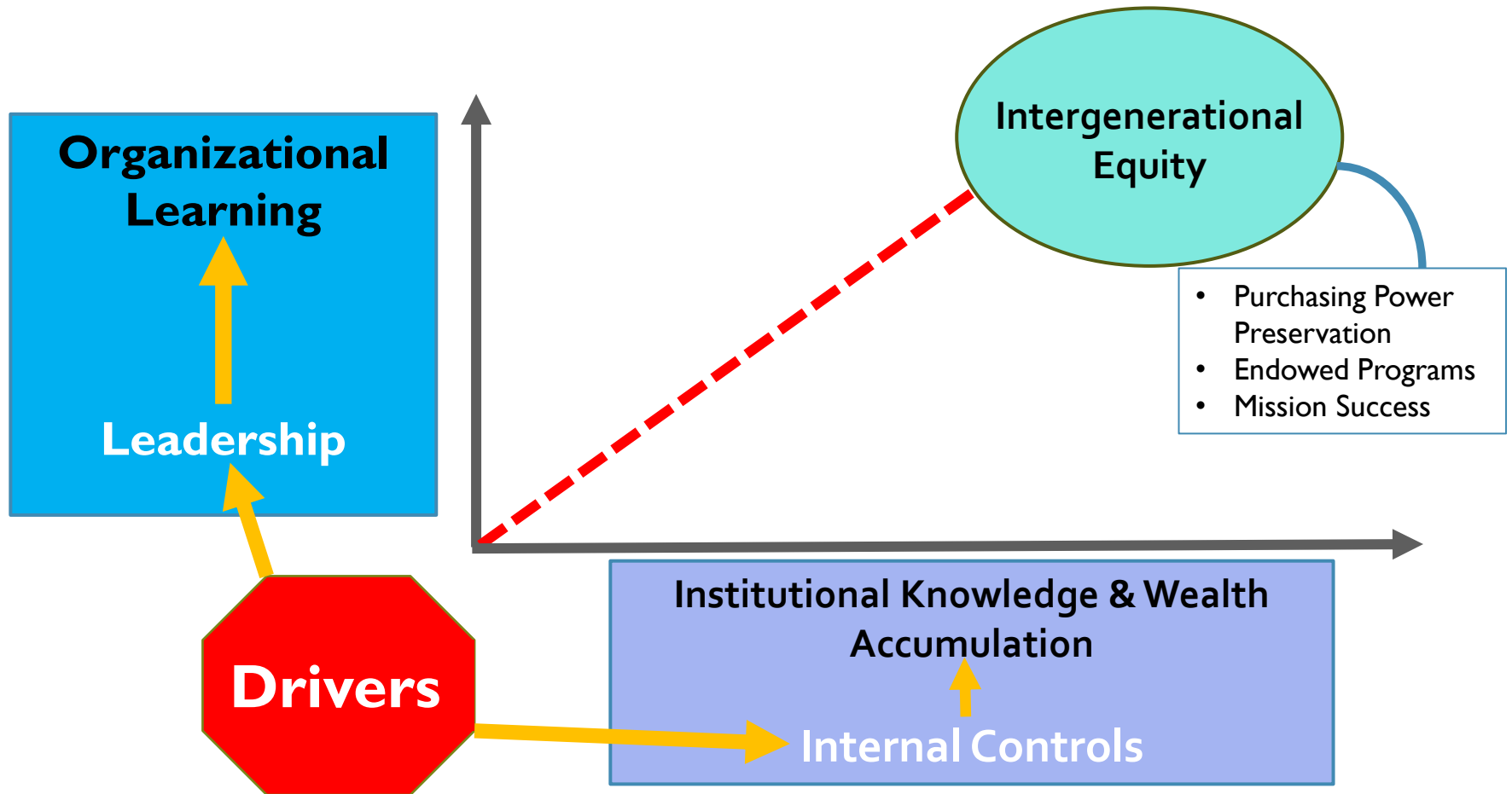
# ASSESSMENT OF NONPROFIT ORGANIZATIONS

How I assess the strength/ weaknesses of Non-Profit Organizations (“*NPOs*”) as potential Grantees.

Two basic characteristics (of equal importance) are found in high-performing NPOs:

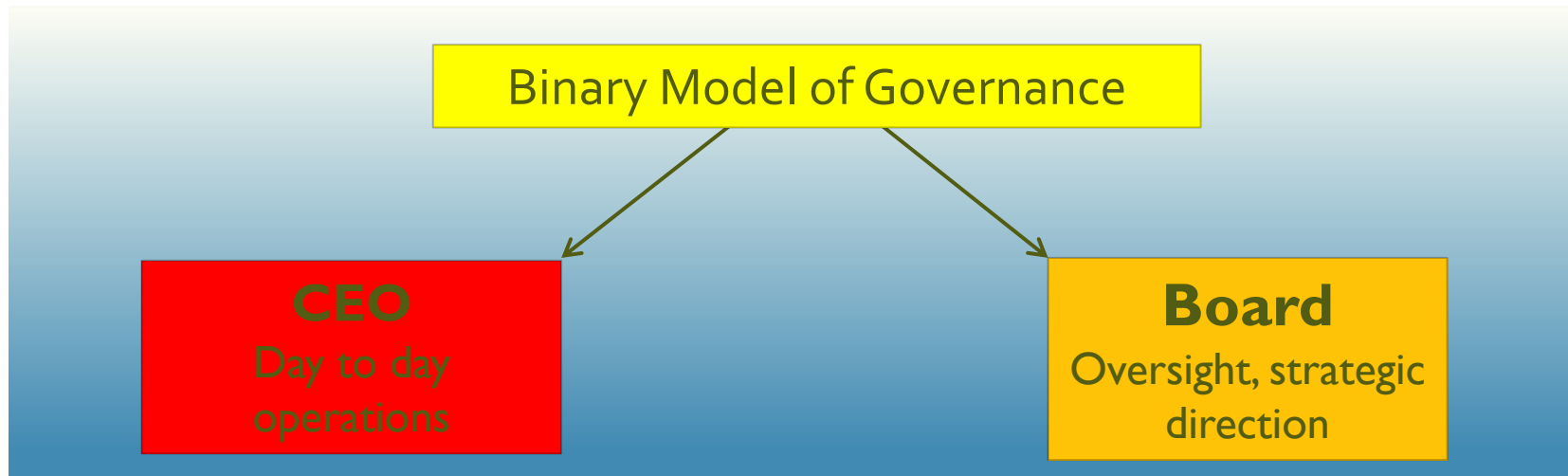
1. Ability to engage in *Organizational learning*
2. Ability to translate OL into *Institutional Knowledge*

# ASSESSMENT OF NPOS



# ORGANIZATIONAL LEARNING - LEADERSHIP

NPOs lack owners → need for self perpetuating governance



**\*\*\*Importance of well delineated roles and swim lanes of authority\*\*\***

# ORGANIZATIONAL LEARNING - LEADERSHIP

Relationship of Chair and CEO is the *barometer* of NPO.

Mentor, Coach, Cheerleader, Sounding Board, Colleague... *or something else?*

Employment Relationship  
Performance review process.

## Pro Tip:

Have lunch with the  
Chair and the CEO.

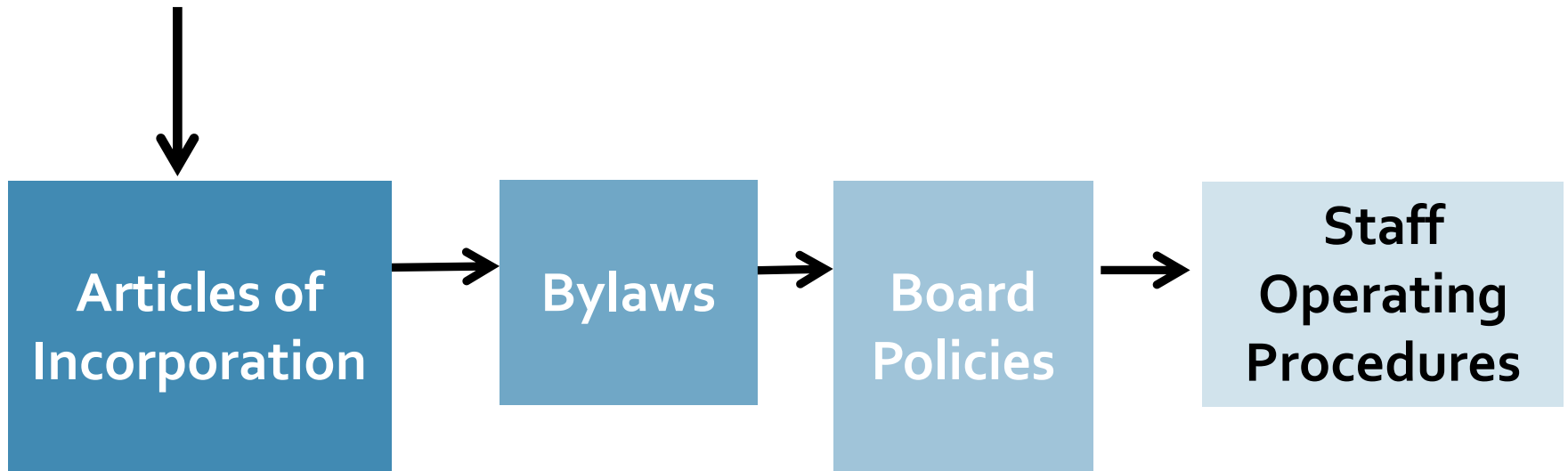
# ORGANIZATIONAL LEARNING - LEADERSHIP

An NPO Board dedicated to Leadership that underpins a culture of organization learning will demonstrate the following behaviors:

- **Have a written Succession Plan for critical positions:**
  - CEO
  - Directors
  - Chair and other Officers
- **Establish and maintain functioning Nominating Committee**
  - Charter
  - Written Board Guidance re Skill Sets and Representation sought

# TRANSFORMING ORGANIZATIONAL LEARNING – INSTITUTIONAL KNOWLEDGE

NPO Board has a hyper-awareness to operate completely within and continue to improve and memorialize "*Internal Controls*".



# IRS FORM 990 POLICIES AND BEST PRACTICES

- Conflict Of Interest Policy (related annual actions)
- Compensation Policy
- Record Retention Policy
- Whistleblower Policy
- Joint Venture Policy

## Pro Tip:

Check Part VI, Section B of the Form 990 re whether NPO has such policies.



# EXAMPLES OF ORGANIZATIONAL LEARNING - LEADERSHIP

- Nominating Committee includes membership or involvement of:
  - Past Chairs
  - CEO
- Nominating Committee bases decisions on written guidance from the board in terms of skills and needs, while including Representation and COI considerations at all times
- Nominating Committee has developed sophisticated network to seek nominations.

# EXAMPLES OF ORGANIZATIONAL LEARNING - LEADERSHIP

- Trend of merging Nominating and Governance Committees
- Governance Committee should be providing New Director orientation
- Manage annual director pledges re COI Disclosures, confidentiality and any other commitments, financial or otherwise.

# OTHER BEST PRACTICE POLICIES DEPENDING ON NPO

- Audit Policy
- Expenditure & Signatory Authority Resolution – updated annually.
- Gift Acceptance Policy
- IT Policies
  - Website Terms of Use
  - Website Privacy Policies - Donor Confidentiality

## Pro Tip:

Check NPO website footers for these IT policies. Are they thoughtful or from a “canned” form?

# OTHER BEST PRACTICE POLICIES

- Agenda sent out in accordance with time/ content requirements as provided in Bylaws.
- Minutes taken at each meeting approved at subsequent meeting.
- Minutes of last Board meeting of the fiscal year reflect approval of next year's budget and election of directors and officers.
- Established Audit Policy and Committee.
  - Membership does not include anyone from Finance Committee and Treasurer
  - Auditor rotated periodically.
- Form 990 filed without any extension.

## **Pro Tip:**

Check filing date of the Form 990 in relation to its fiscal year end. Both dates are on the 1st page of the return

FACT PATTERN #1

**INTERNATIONAL  
PLATYPUS PROTECTION  
LEAGUE**

# OBJECTIVE PERFORMANCE METRICS

## FORM 990 TAX RETURN & AUDITED FINANCIAL STATEMENTS

Public Measurements of Organizational Learning and Institutional Knowledge.

# OBJECTIVE FINANCIAL METRICS

## Change in Net Assets

- Measures financial performance by answering the question “Did your organization live within its means during the year?”
  - See Part 1, Form 990: lines 20 - 21

## Fundraising Efficiency

- Indicates the amount of contributions that result from fundraising expenses by dividing the former by the latter.
  - Divide line 8 by line 16 from Part 1 of the Form 990.

# OBJECTIVE FINANCIAL METRICS

## Schedule B to the Form 990

Donors Anonymous, but Dollar amounts may be seen.

- Compare Schedule B against Part I, line B
- Are there any donors that make up a significant % of contributions?
- If the answer is yes, that reveals a potential weakness, should such donor discontinue funding.
- What is the plan of the NPO in connection with that weakness?



# OBJECTIVE FINANCIAL METRICS

## Stewardship Ratio

- “*total program services*” line of Statement of Activities divided by the aggregate “*total expenses*” you will see ratio that reflects the ownership stewardship of funds
- Many advisors believe target stewardship ratio for NPO should be ~85%. If the ratio is higher that indicates the staff of the NPO is being over-taxed in their workload.
- I do not believe in the 85% Rule.

# OBJECTIVE FINANCIAL METRICS

## Reserve Ratio

- Divide total unrestricted net assets by the total monthly expenses.
- Should it be less than 1.0, then NPO may have a going-concern issue.
- Ideally, this ratio should be 6.

# OBJECTIVE FINANCIAL METRICS

## Quick ratio

- Test of true liquidity of NPO to meet current obligations.
- Banks use the quick ratio comparison to gauge financial stability
- Take total cash and cash equivalents on a Statement of Position & divide that number by the total liabilities of the NPO.
- Ratio basically compares quick assets (current assets less inventory and prepaid expenses) to current liabilities
- NPO's ratio should not be less than 1.0.

# OBJECTIVE FINANCIAL METRICS

## Viability Ratio

- Compares expendable net assets (including unrestricted and temporarily restricted net assets) to long-term debt.
- This ratio relative liquidity or its ability to cover its debt.
- Basic indicator of financial strength, measuring the availability of cash and other liquid assets to meet the organization's financial obligations over the long term.

# OBJECTIVE FINANCIAL METRICS

## Current Ratio

- Ability to meet short-term financial obligations by comparing current assets to current liabilities.
- Ideally, Current Ratio of at least 1.0 or greater is preferable.
- A Current Ratio under 2.0 may indicate inability to pay current financial obligations with a measure of safety.

# OBJECTIVE FINANCIAL METRICS

## Program Efficiency

- Compares total program expenses to total expenses.
- Demonstrate to potential funders how efficient your organization is in fulfilling its mission.

## Operating Reliance

- Show how much your NPO is able to pay for total expenses solely from program revenues.
- Divide program revenues by total expenses.

FACT PATTERN #2

**THE TURN RIGHT  
FOUNDATION**

FINDING MEANING IN THE  
ENDOWMENT OF HUMANITY



**THE**  
**Philanthropist**  
**Handbook**

CLAY M. GRAYSON

THANK YOU!

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