

DRAFT May 26, 2005

STUDY ON MODELS OF
SELF-REGULATION IN THE NONPROFIT SECTOR

The National Center on Philanthropy and the Law
April 15, 2005

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Introduction

This Report on Self-Regulatory Structures is being delivered pursuant to the Agreement between INDEPENDENT SECTOR on behalf of the Panel on the Non-profit Sector (the “Panel”) and the National Center on Philanthropy and the Law (the “NCPL”) entered into on February 15, 2005 (the “Agreement”). It includes:

1. an overview of the Report,
2. a narrative description of certain factors that might impact the effectiveness of various models of self-regulation,
3. a description of selected organizations and their self-regulatory models,
4. a chart that combines 2 and 3 above, i.e., which lists the self-regulatory organizations identified in 3 above, and indicates the extent to which and the manner in which each organization illustrates the factors identified in 2 above, and
5. a statement of our conclusions as to which of the examined factors have the most impact on the effectiveness of the selected regulatory schemes.

The information set forth in this Report was gathered through research, literature searches, networking with experts in the field of self-regulation, and a conference convened by the NCPL at New York University School of Law on January 31, 2005.

Overview

This Report analyzes self-regulatory structures, defined for this purpose as situations in which one organization (other than a government) sets standards for, oversees, accredits, or regulates other organizations. There is another common and correct meaning of “self regulation”: the adoption by an organization of standards or procedures for its *own* activities. This Report does not attempt to discuss such single-entity self-regulation, and thus does not examine recent developments in “best practices” for governance of nonprofit organizations, despite the importance of those developments and the growth of a substantial literature dealing with them.

The project undertaken by the NCPL and reflected in this Report was not intended to provide a census or enumeration of self-regulatory organizations. Rather, the Report presents a suggested approach towards a taxonomy of self-regulatory models. Although the Report does contain several examples of specific self-regulatory models,¹ its focus is on the categorization and analysis of those aspects of the models that we believe might significantly affect their effectiveness. Based on our research, we believe that an analysis of the sort reflected in this Report is unique: we have not been able to discover any comparable rigorous analytical effort in any of the literature we have examined.

¹ Some of the examples were suggested by the Panel or by staff at INDEPENDENT SECTOR.

The Report identifies factors or attributes of self-regulatory schemes that, alone or in combination, may help to describe the critical differences among various types or categories of self-regulation and that may also assist in analyzing (or predicting) which types of self-regulation are likely to be more effective. Stated another way, this Report seeks to identify factors or attributes of self-regulatory structures that correlate with success.

Correlation is not necessarily causation. For example, there is a significant correlation between the length of a person's feet and the person's mathematical ability: new-born infants are not good at analytical geometry or tensor calculus. It does not follow that stretching feet will contribute to an improvement in mathematical prowess. Nevertheless, some of the factors identified in this Report *may* be causally connected to improved self-regulatory functions. In the conclusion to this Report, some tentative suggestions will be tendered about which factors may so qualify.

The conclusions set forth in this Report derive from our analysis of the factors that we selected for analysis and represent our best understanding as to why each system is more or less effective. In preparing this Report, we did not engage in any empirical research. Accordingly, our conclusions as to the efficacy of the examined self-regulatory systems are based on literature searches, conversations, and anecdotal evidence — and our own experience and judgment — rather than on empirical analysis.

This Report puts forth a taxonomy. Like all taxonomies, that results in some good news and some bad news. The good news is that taxonomies, if useful, identify important similarities among disparate things and thus help to organize them into distinguishable groups. The bad news is that taxonomies tend to reduce attention to the possible significance of differences among things that have been grouped together.

Although this Report reflects a careful selection of factors that we believe are significant in influencing the efficacy of self-regulatory models, certain factors that might be relevant to this determination are not taken into account because of the difficulty of properly measuring them. For example, the talent of the leadership of a self-regulatory organization and the logic and comprehensiveness of the organization's standards both indisputably impact its effectiveness, but because they are very difficult to quantify they have not been analyzed in the conclusions reached in this Report. Furthermore, because of problems in ascertaining relevant data, certain factors discussed in this Report proved to be not particularly useful in our analysis of the efficacy of self-regulatory systems. For example, the information contained under the factors entitled "*ratio of regulatory staff to organizations and issues regulated*" and "*ratio of budget to organizations and issues regulated*" in most cases reflect aggregate staff and budget for the overall regulating entity rather than staff and budget specifically allocated to its self-regulatory functions. None of the entities that we examined provides the type of precise allocation between regulatory

and non-regulatory functions that would be necessary to undertake a useful comparison of the impact of those factors.

Because we found few prior analyses to assist us, our taxonomic factors must be viewed as tentative. We may have overlooked, over-emphasized or under-emphasized, misdescribed, or otherwise distorted relevant factors. We hope our taxonomy is a helpful effort, but we solicit and welcome comments and criticisms in order to improve its utility.

Factors Affecting the Effectiveness of Self-Regulatory Schemes

The following factors reflected in self-regulatory schemes may have an impact on the effectiveness of the self-regulation:²

- I. **Sanctions.** One group of factors that may influence the effectiveness of self-regulatory schemes involves sanctions that may be imposed by the self-regulating organization. Sanctions may be subdivided into two categories: (1) sanctions with *legal enforceability* are those that are imposed and enforced by the legal authority of the regulatory body or some other entity; (2) sanctions with *other enforceability* are those that are more informal and not enforced by law. The latter category of sanctions might include, for example, fines, loss of membership, or public censure. A second factor in assessing the effectiveness of particular sanctions is the organization's *history of enforcement* with respect to the penalty or sanction. This factor is relevant to the credibility of the self-regulatory body and the likelihood that the regulated will abide by standards because of a perception of the reality of sanctions. Finally, a practice of *disclosure of sanctions* or other similar public shaming by the regulatory body might make a regulatory scheme more effective.

- II. **Value of Accreditation.** Another set of factors that influences the effectiveness of self-regulatory systems involves accreditations controlled or mandated by the self-regulatory body. The factors to be considered in assessing the effectiveness of accreditations include: (1) the impact of the accreditation on the regulated organization's *ability to market to funders* and *the ability to market to members* (i.e., the usefulness of the accreditation issued by the regulatory body in marketing an organization's products or services to potential or current funders or members); (2) *Industry "buy-in"* — acceptance of the regulatory body's rules, standards, and accreditation by industry members in their dealings with peers in the industry; and (3) a regulatory body's *monopoly power*, as a gate-keeper, to

² This text should be read in connection with the chart attached as Appendix A.

prevent or significantly disadvantage non-accredited entities from functioning in the relevant market.

- III. **Specificity.** Issues of specificity may also affect the effectiveness of self-regulatory schemes. One type of specificity is *specificity of the sector or subsector regulated*. For example, a self-regulatory scheme might apply to all charitable organizations, or to all health-care organizations, or to all hospitals, or to all hospitals in New York State, or to all hospitals in New York City. Each successive example is more specific than its predecessor either by sectoral scope or geography. Another sort of specificity is *specificity of activity regulated*. For example, a self-regulatory scheme might address all issues of good governance, or only financial issues, or only portfolio management. Of course, self-regulatory schemes may be specific both as to subsector regulated and as to activity regulated, e.g., the Evangelical Council for Financial Accountability. Because greater specificity may make possible better “fitting” and precision of standards, it may increase the effectiveness of the self-regulatory scheme.
- IV. **Transparency.** Both *dissemination of standards* and *disclosure of processes* of the regulating body are relevant in assessing the effectiveness of self-regulatory schemes. The more widely standards are known, the more likely they are to be effective. The better the understanding of standards-enforcement processes (at least if they are then perceived to be both rigorous and fair), the greater should be the acceptance of their outcomes.
- V. **Others.** Other factors also impact the efficacy of self-regulatory schemes. Some of these factors reflect the size of the resources of the regulating entity as compared to the scope or impact of its standards. For example, the *ratio of regulatory staff to organizations and issues regulated* and the *ratio of budget to organizations and issues regulated* will influence effectiveness of the self-regulatory organization.³ Another related factor is the

³ As mentioned above, the information contained under the factors entitled “*ratio of regulatory staff to organizations and issues regulated*” and “*ratio of budget to organizations and issues regulated*” in most cases reflect total staff and budget for the regulating entities rather than staff and budget specifically allocated to their self-regulatory functions. Because the data listed are not specific to the regulatory function of the organizations, they are less useful in the analysis of the impact of these factors on the effectiveness of the examined self-regulatory schemes. None of the entities that we examined maintain the sort of allocation between regulatory and non-regulatory function expenses and staff hours that would be necessary to undertake a careful analysis of those factors.

focus of the self-regulatory entity, as shown by the importance of its regulatory functions relative to its overall functions.

A further factor that may impact the effectiveness of a self-regulatory scheme is the scope of *pre-certification* and *post-certification processes*, i.e., whether the regulatory body requires regulated entities to engage in pre- or post-certification training or education in order to retain membership, accreditation, funding, or other privileges.

The *immediacy of the threat of government regulation*, i.e., whether the government is perceived as poised to adopt regulations affecting the sector or activity currently self-regulated, is a factor that may influence the effectiveness of a particular regulatory scheme. The *source of funding* of the regulating entity (i.e., from those regulated or from unrelated sources) is another factor to consider. Other relevant factors include *whistle blower protection* (whether the regulatory body encourages whistle blowing by offering effective protection against retaliation), *investigatory power* (i.e., the authority of the regulatory body to issue subpoenas or otherwise compel disclosure of the activities and records of regulated entities), *robustness of process*, and *site visits*. Finally, whether the *regulating body does self-evaluations* may be a factor to be considered.

Selected Self-Regulatory Entities

Set forth below is a description of selected entities and their self-regulatory models.⁴ As requested by the Panel, the selected entities are organized into three groups: (1) entities that regulate organizations, (2) entities that regulate individuals, and (3) entities that regulate both organizations and individuals. We have grouped the selected entities in this manner because we have been requested to do so. We do not wish to suggest that this tripartite categorization is necessarily the best or most effective way of grouping self-regulatory entities.⁵

- (1) Entities that Regulate Organizations: The following entities regulate organizations:
 - a. **American Association of Museums**: The AAM Museum Accreditation Program sets standards and best practices through a self-regulating program of quality assurance and accountability. The AAM's self-regulatory scheme is quite effective based primarily on (1) the importance of (and in some cases, requirement for) AAM accreditation to museum funders and (2) the robustness of the accreditation process, which includes site visits and a complex evaluation.
 - b. **American Bar Association**: The ABA is the largest voluntary professional association in the world. The ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges, and initiatives to improve the legal system for the public. This Report focuses on the ABA law school-accreditation function, which is an effective self-regulatory model based primarily on its monopoly power. A law school that fails to meet ABA standards will lose or be denied accreditation. Graduates from unaccredited law schools cannot practice law in most jurisdictions and credits from unaccredited schools generally are not transferable to accredited schools.

⁴ Only a small number of entities were selected for this Report. Although they were chosen as helpful examples, no inference should be made about the effectiveness of any organization by virtue of being included in or excluded from discussion herein.

⁵ The federal experience leading up to the enactment of intermediate sanctions (under section 4958 of the Internal Revenue Code of 1986, as amended) illustrates that limiting regulation to sanctions against organizations, rather than individuals, in some instances results in enforcement that may be either insufficiently meaningful or, alternatively, overly harsh. This suggests that self-regulation may be more effective if it addresses the conduct of both organizations and individuals.

- c. **American Board of Medical Specialties:** The ABMS is the umbrella organization for 24 approved medical specialty boards in the United States. The ABMS serves to coordinate the activities of its Member Boards and to provide information to the public, the government, the profession, and its Members concerning issues involving specialization and certification in medicine. Over 180 certifying medical specialty boards, however, are not members of ABMS, making it less effective as a self-regulatory model since it lacks (1) monopoly power, (2) funder buy-in, and (3) legal enforceability.
- d. **Australian Council for International Development:** The ACFID is an independent national association of Australian non-government organizations working in the field of international aid and development. It administers a Code of Conduct committing its 80 members to standards of integrity and accountability and withdraws membership status from any entity that does not comply with its standards. It is effective as a self-regulatory entity because membership in ACFID is required for eligibility for government funds in Australia.
- e. **Better Business Bureau Wise Giving Alliance:** The Wise Giving Alliance reports on nationally-soliciting charitable organizations that are the subject of donor inquiries. These reports include an evaluation of the subject charity in relation to voluntary standards. In addition, the Wise Giving Alliance offers national charities that meet its standards the option of applying for a BBB national charity seal that can be displayed both online and in solicitation materials. The effectiveness of the Wise Giving Alliance is constrained because (1) compliance with its standards is purely voluntary, (2) its standards have no legal enforceability, (3) a relatively small number of eligible organizations have sought a seal (indicating a low level of industry buy in), and (4) seals are not typically required for funding by government or private sources.
- f. **Council on Foundations:** The Council on Foundations is a membership organization of more than 2,000 grant making foundations and giving programs worldwide. Each member must subscribe to and follow a set of Principles and Practices for Grantmakers and, in theory, can lose membership for failing to comply with these guidelines. The Council, while a powerful and efficient source of information and guidance for its members, is not a particularly effective self-regulatory model because (1) its guidelines are not legally enforceable, (2) most of its members (other than community foundations) do not solicit funds and therefore can easily operate without membership, and (3) the sanction of loss of membership is rarely invoked.

- g. **Evangelical Council for Financial Accountability:** ECFA is an accreditation agency for Christian ministries comprising over 1,100 charities. ECFA members are required to comply with its Standards of Responsible Stewardship which focus on board governance, financial transparency, integrity in fund-raising, and proper use of charity resources. ECFA is particularly effective as a self-regulatory model within its specific arena because of (1) the value of its certification to funders, (2) the robustness of its process, which includes site visits and an annual recertification process, (3) its history of enforcement through suspension of members, which lends credibility to its standards, and (4) its broad disclosure of violations and sanctions, which makes noncompliance more threatening.
- h. **InterAction American Council for Voluntary International Action Inc. Membership:** InterAction accredits US nonprofits involved in international humanitarian work primarily through a system of self-certification. The organization is somewhat effective as a self-regulatory body because of the value of its accreditation to certain funders, although the fact that certification is not generally required by funders limits the impact of the regulatory system.
- i. **InterAction American Council for Voluntary International Action Inc. Child Sponsorship Accreditation Program:** InterAction's Child Sponsorship Accreditation Program is a relatively new initiative that uses a formal certification process to accredit member child sponsorship programs. In its first year, five members were accredited. This accreditation is likely to become more effective in the future if it evolves into a prerequisite for funding for such programs.
- j. **Joint Commission on Accreditation of Healthcare Organizations:** The Joint Commission evaluates and accredits more than 15,000 health care organizations and programs in the United States. In 1965, Congress passed the Social Security Amendments of 1965 with a provision that hospitals accredited by JCAHO are "deemed" to be in compliance with most of the Medicare Conditions of Participation for Hospitals and, therefore, able to participate in the Medicare and Medicaid programs. Accordingly, JCAHO's accreditations have legal authority, making the self-regulatory scheme particularly effective. In addition, JCAHO is effective because (1) its accreditation is significant to funders, members, and the healthcare industry in general, (2) it discloses serious violations of its standards to the government or to licensing agencies, and (3) its process, which is quite robust, in-

cludes site visits and integrates extensive analysis of outcome and other performance measurements.

- k. **Land Trust Alliance:** The LTA requires land trust members to adopt the LTA Standards and Practices and to evidence that adoption with a Board resolution. The impact of the LTA as a self-regulatory body rests on the fact that some public funders require potential grantees to provide a statement of adoption of LTA Standards and Practices. However, LTA membership is not a mandatory prerequisite for these grants, which tends to limit the significance of LTA membership. The effectiveness of the LTA regulatory scheme is further limited by (1) the lack of any real sanctions and (2) the absence of processes for determining compliance with the guidelines.
- l. **Maryland Association of Nonprofit Organizations Standards for Excellence Institute:** Maryland Nonprofits offers a voluntary, peer-review, certification program for nonprofit organizations interested in demonstrating that they carry out the Standards for Excellence. Certified organizations are given permission to use the Seal of Excellence, which can be denied or revoked for failure to meet all of the Standards. Although the Seal may be important to some funders, it generally is not required for funding, which limits the effectiveness of the self-regulatory system.
- m. **Middle States Association of Colleges and Schools Commission on Higher Education:** The Middle States Commission on Higher Education is a voluntary, non-governmental, membership association that accredits schools through a peer-evaluation program. The Higher Education Act of 1963, Title IV Student Assistance Program, requires schools to be accredited by a certified accrediting agency such as the MSCHE for school eligibility for federal funding and for student eligibility for federal grants. This is a particularly effective self-regulatory scheme because (1) accreditation is legally required for certain federal funding, (2) the MSCHE is the only regional body for the middle state region that accredits entire institutions, and (3) the accreditation process is quite robust as it requires an extensive application process and site visits.
- n. **National Council of YMCAs of the USA:** The National Council accredits member YMCAs and can revoke membership of a YMCA that is not in compliance with the YMCA mission and non-discrimination policy. The effectiveness of this self-regulatory scheme depends on the fact that an unaccredited organization cannot use the YMCA name. Its effectiveness is limited by its lack of robust process.

- o. **Public Company Accounting Oversight Board:** The PCAOB is a private-sector, non-profit corporation, created by the Sarbanes-Oxley Act of 2002 to oversee the auditors of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, fair, and independent audit reports. The PCAOB is authorized to impose fines, remedial measures, quality control procedures, the appointment of an independent monitor, and revocation of registration. The PCAOB self-regulatory scheme is particularly effective because (1) it is created and enforced by law, (2) its sanctions are real and significant, (3) its process is robust, and (4) it has significant investigatory powers.
- p. **United Way of America:** The UWA certifies local United Ways for membership and can revoke or deny membership to organizations not meeting its Accountability and Financial Standards. This self-regulatory scheme is effective because (1) the sanction of revocation of membership and the right to use the “United Way” name is real and enforceable, (2) membership is important to funders, and (3) 59 local United Ways have lost membership since 2003, creating a genuine threat of enforcement.
- q. **Western Association of Schools and Colleges:** The WASC is one of six organizations regional associations that accredit public and private schools, colleges, and universities in the United States. The Higher Education Act of 1963, Title IV Student Assistance Program, requires schools to be accredited by a certified accrediting agency such as the WASC for school eligibility for federal funding and for student eligibility for federal grants. This is a particularly effective self-regulatory scheme because (1) accreditation is legally required for certain federal funding, (2) the WASC is the only accrediting body for its region, and (3) the accreditation process is quite robust as it requires an extensive application process and site visits.

We conclude, based on our analysis of the selected self-regulatory entities, that certain factors, alone or in combination, were the most significant for creating an effective self-regulatory scheme. Probably the single most significant factor is *legal enforceability* of sanctions. A second significant set of factors is the authority to accredit organizations coupled with the authority to withdraw the accreditation, particularly when this certification or accreditation is required either (1) to enable to the organization to engage in the activities for which it is formed (*monopoly power*) or (2) for funding by government and private grant makers (*ability to market to funders*). These factors may be even more powerful when the self-regulatory entity has a strong history of enforcing its sanctions,

when the processes of accreditation and required reaccreditation are robust (particularly if site visits are required), and when adequate staff and budget are allocated to the regulatory function.

American Association of Museums

www.aam-us.org

EIN Number: 53-0205889

NTEE Code: A03

Factor	Description
<i>SANCTIONS</i>	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	The AAM's members risk losing membership if they fail to pay their dues, for "due cause," or for "use of membership in the Association to work for purposes inconsistent with the mission and objectives of the Association and any standards which the board of directors may require." (AAM Constitution Article 3, §2). Reputational considerations associated with loss of accreditation are another sanction. Some donors (including the State of Florida) require accreditation before they will provide funding.
- <i>history of enforcement</i>	The AAM was established in 1906. From Dec. 2002 – Dec. 2003, 163 institutions were reviewed. The results were: 42 Accreditations Tabled; 84 Accreditations Awarded; 1 Accreditation Awarded Pending; 21 Interim Approvals Granted; 1 Interim Approval Tabled; 4 Accreditations or Interim Approvals Denied. On average, 5 museums lose accreditation each year for failure to pay dues or for violation of standards.
- <i>disclosure of sanctions</i>	No. The only action that the AAM takes is to remove the sanctioned museum from its List of Accredited Museums.
<i>VALUE OF ACCREDITATION</i>	
- <i>ability to market to funders</i>	Yes. Some funders (including the State of Florida with respect to state funding) require accreditation for grants.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes. 743 museums are accredited, and 72 museums are "applicants."
- <i>monopoly power</i>	No.
<i>SPECIFICITY</i>	
- <i>specificity of sector or sub-sector regulated</i>	All museums in the United States that volunteer to undergo the accreditation process.
- <i>specificity of activity regulated</i>	AAM accreditation concerns all aspects of a museum's operations and programs.

<i>TRANSPARENCY</i>	
- <i>dissemination of standards</i>	Yes. Its Standards and Best Practices are available online, and other standards resources are available from the AAM.
- <i>disclosure of process</i>	Yes. The AAM's accreditation process is outlined in detail online.
<i>OTHERS</i>	
- <i>staff ratio to organizations regulated</i>	The AAM accreditation staff of 3 is relative to 743 museums and 72 applicants.
- <i>budget ratio to organizations regulated</i>	The AAM's revenue in 2003 was \$8,180,777, a significant portion of which is dedicated to the accreditation process. This is relative to a membership of 743 museums and 72 applicants.
- <i>focus of the entity</i>	Accreditation is part of a larger organization that provides other member services such as publications, conferences, etc.
- <i>pre-certification</i>	Pre-accreditation, the museum must be "essentially educational in nature" and "open to the public for at least 2 years."
- <i>post-certification</i>	Reaccreditation is required at least every 10 years, and more often if accreditation was granted with concern.
- <i>immediacy of the threat of gov't regulation</i>	No.
- <i>source of funding</i>	Funding comes from contributions, program services, investments, sales, membership dues and fees.
- <i>whistle blower protection</i>	No. But the AAM requires accredited museums to provide whistle blower protection.
- <i>investigatory power</i>	The AAM requires the applicant museum to allow an AAM investigation.
- <i>robustness of process</i>	The process includes an application with a fee, self-study by the museum, site visits, and a final accreditation decision by the Accreditation Office.
- <i>site visits</i>	Yes. Conducted at the applicant's expense for accreditation and reaccreditation.
- <i>regulating body does self-evaluations</i>	AAM's Code of Ethics requires it to have an annual Independent Auditor's Report, which it posts on its website.

American Bar Association
 www.abanet.org/legaled.home.html
 EIN Number: 36-2384321
 NTEE Code: Y30

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	The Higher Education Act of 1963 (20 U.S.C. 1099b(a)(3)(1994)) states that the Department of Education requires that educational institutions be approved by an established accrediting agency in order to be eligible for federal programs, including funding.
- <i>other enforceability</i>	If a school does not meet ABA standards, it faces denial or loss of accreditation. Graduates from unaccredited law schools cannot practice law in most jurisdictions, and credits from these schools are not always transferable to accredited schools.
- <i>history of enforcement</i>	The ABA was established in 1878; its most recent denial of accreditation (to MA Law School) was upheld by MA District Court in 1997. <u>Mass. Sch. of Law at Andover v. ABA</u> , 846 F. Supp. 374 (E.D. Pa. 1994), <i>aff'd</i> , 107 F.3d 1026 (3d Cir. 1997), <i>cert. denied</i> , 522 U.S. 907 (1997). In 1994, the Department of Justice began investigating the ABA, resulting in the ABA agreeing to the entry of a consent decree, requiring the ABA to modify its accreditation process. Changes included amending the role of the House of Delegates in adopting or amending any rule, allowing appeals on accreditation decisions to go to the House of Delegates, and removing House authority over the Council.
- <i>disclosure of sanctions</i>	Yes; the ABA publishes a list of accredited schools. If a school loses its accreditation, this information is made public.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	The ABA is the only national organization that provides law school accreditation. A few states will accredit law schools not accredited by the ABA and accept those graduates for practice in the state. The Department of Justice has investigated the ABA on anti-trust claims, resulting in a consent decree that caused the ABA to change its governance structure.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	All American law schools.

- <i>specificity of activity regulated</i>	The ABA standards cover every aspect of law school operations.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Detailed standards are available online.
- <i>disclosure of process</i>	Yes. Process details are available online.
OTHERS	
- <i>staff ratio to organizations regulated</i>	The ABA accreditation staff of 12 is relative to 189 approved law schools.
- <i>budget ratio to organizations regulated</i>	The annual budget of the ABA is more than \$100 million, relative to 189 approved law schools. Only a fraction of this amount is spent on the accreditation process.
- <i>focus of the entity</i>	The regulation of law schools is part of the activities of a larger organization. The ABA is engaged in lobbying, member services and publications, standards for lawyers and the judiciary, continuing education, pro bono work, among other activities.
- <i>pre-certification</i>	Prerequisites for accreditation include being in operation for at least 1 academic year and the completion of a Site Evaluation Questionnaire.
- <i>post-certification</i>	The ABA initially requires renewal of accreditation after 3 years, then subsequently every 7 years.
- <i>immediacy of the threat of gov't regulation</i>	There is no current threat of government regulation.
- <i>source of funding</i>	Member fees and dues provide a majority of ABA funding.
- <i>whistle blower protection</i>	
- <i>investigatory power</i>	The ABA conducts extensive investigations.
- <i>robustness of process</i>	The accreditation process involves extensive fact-finding by the Accreditation Committee including site visits, interviews, self-evaluations, and many stages of approval. The burden to demonstrate full compliance is on the school.
- <i>site visits</i>	The ABA conducts site visits that last several days and involve multiple meetings and interviews.
- <i>regulating body does self-evaluations</i>	No.

American Board of Medical Specialties

www.abms.org

EIN Number: 23-7304902

NTEE Code: H99

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	Certificates may be inactivated; approval may be denied.
- <i>history of enforcement</i>	The ABMS has approved boards since 1934; 24 are currently approved. 3 certificates were inactivated in 2003.
- <i>disclosure of sanctions</i>	No. One can access lists of approved boards online; to access listings of certified physicians, one must register for the site's services.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	N/A.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	No. While there are currently 24 approved boards, 180 boards are not ABMS approved.
- <i>monopoly power</i>	No.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	US medical specialty boards.
- <i>specificity of activity regulated</i>	Broad. The Essentials for Approval of Examining Boards in Medical Specialties cover many areas of board practice.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are available online or from ABMS publications.
- <i>disclosure of process</i>	Yes. The details of the process are available online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The ABMS' 5 full-time staff handles 24 approved boards.
<i>- budget ratio to organizations regulated</i>	Revenue \$291,926 (FY 2003) is relative to 24 approved boards.
<i>- focus of the entity</i>	The ABMS publishes a directory and provides Doctor Verification Services, publishes books, and conducts conferences.
<i>- pre-certification</i>	Prerequisites for approval include presenting a plan for developing graduate education in the specialty, evidence of broad professional support for the board, and evidence that there is not already a board for that specialty.
<i>- post-certification</i>	
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	ABMS funding comes from direct public support, interest and program services.
<i>- whistle blower protection</i>	
<i>- investigatory power</i>	No.
<i>- robustness of process</i>	Low. The ABMS accepts proposals, may conduct hearings, and provides for appeals, but its process is not robust.
<i>- site visits</i>	No.
<i>- regulating body does self-evaluations</i>	No.

Australian Council for International Development

www.acfid.asn.au

EIN Number: N/A

NTEE Code: N/A

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	Member adherence to the ACFID's Code of Conduct for Non Government Development Organizations is required for eligibility for the AusAid matching grant scheme.
- <i>other enforceability</i>	If a member is not in compliance, ACFID responds by withdrawing the member's affiliation status and publishing its name and the nature of its breach. Other sanctions include resolution of the violation through a reconciliation process or notification of AusAid.
- <i>history of enforcement</i>	
- <i>disclosure of sanctions</i>	Yes. Names of organizations in breach of obligations are published by the ACFID.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes. Access to the AusAid matching grant scheme is attractive to donors.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	Yes. If the organization wants to be eligible for government funds.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Non Government Development Organizations in Australia.
- <i>specificity of activity regulated</i>	The Code covers broad areas of organizations' practices.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are widely available.
- <i>disclosure of process</i>	Yes. The process is detailed online.

OTHERS	
- <i>staff ratio to organizations regulated</i>	14 staff is relative to 80 members.
- <i>budget ratio to organizations regulated</i>	In 2004, ACFID's revenue was \$1,300,638, relative to 80 members.
- <i>focus of the entity</i>	The ACFID focus is the Code's implementation and enforcement.
- <i>pre-certification</i>	Accreditation application including audited financial statements.
- <i>post-certification</i>	Signatories are required to provide an annual report and annual audited financial statements.
- <i>immediacy of the threat of gov't regulation</i>	The ACFID works in partnership with the government.
- <i>source of funding</i>	Government grants and member fees provide funding for ACFID programs.
- <i>whistle blower protection</i>	Yes. In addition, the Code promulgated for members contains a whistle-blowing protection provision. However, the ACFID does not pursue anonymous complaints.
- <i>investigatory power</i>	The Guidance Document to the Code outlines the investigatory power of the ACFID. This includes the ability to collect information with the consent of the organization being investigated, and only when necessary for the investigation.
- <i>robustness of process</i>	The process is highly robust, including a complaints procedure, outlined penalties, and an appeals process.
- <i>site visits</i>	Yes. Investigations are conducted with the consent of the party being investigated.
- <i>regulating body does self-evaluations</i>	No.

Better Business Bureau Wise Giving Alliance

www.give.org

EIN Number: 52-1070270

NTEE Code: S03

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	The only enforceability the BBB has is to refuse the BBB seal to noncompliant organizations.
- <i>history of enforcement</i>	The Wise Giving Alliance was formed in 2001 as a result of the BBB Foundation's Philanthropic Advisory Service and National Charities Information Bureau; it performs about 500 national reports each year.
- <i>disclosure of sanctions</i>	If the BBB revokes an organization's seal, the information would be available online.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	No. Adherence to the Wise Giving Alliance's standards is entirely voluntary.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Charities.
- <i>specificity of activity regulated</i>	Broad.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are available online, and in print by request.
- <i>disclosure of process</i>	Yes.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	10 Wise Giving Alliance staff, supported by BBB staff, is relative to thousands of nonprofit organizations.
<i>- budget ratio to organizations regulated</i>	The Wise Giving Alliance's revenue in 2003 was \$1,593,513 relative to thousands of nonprofit organizations.
<i>- focus of the entity</i>	The focus is on reporting and the BBB Seal only.
<i>- pre-certification</i>	No.
<i>- post-certification</i>	No.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	Funding comes from public support, program service revenue, and interest on savings and investments.
<i>- whistle blower protection</i>	
<i>- investigatory power</i>	No. The Wise Giving Alliance will request information from organizations that are the subject of donor inquiries.
<i>- robustness of process</i>	Low. Investigations are based on information provided by the nonprofit organization.
<i>- site visits</i>	No.
<i>- regulating body does self-evaluations</i>	Yes. The Wise Giving Alliance adheres to all of its own standards.

Council on Foundations
 www.cof.org
 EIN Number: 13-6068327
 NTEE Code: T50

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	In egregious situations, the COF will inform government agencies of member misconduct. The COF can revoke membership for non-compliance with their Principles and Practices for Grant-makers. Community foundations must meet separate standards to have access to certain benefits, such as marketing materials.
- <i>history of enforcement</i>	The COF has over 50 years of history in the field. They have required corrections of violations by private foundations and community foundations, but none have lost membership.
- <i>disclosure of sanctions</i>	Yes. If a member is on probation or membership is revoked, that action is not private. The decision of whether to publish the results of a review is made on a case-by-case basis.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes. Community foundations can market to funders. Private foundations do not fundraise.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	No. Membership is not mandatory.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The COF regulates all member foundations. Private foundations and community foundations are members; the accreditation process is more stringent for community foundations.
- <i>specificity of activity regulated</i>	Regulations concern all aspects of the sector's activities.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes.
- <i>disclosure of process</i>	Yes.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	87 COF staff is relative to 1,921 member foundations.
<i>- budget ratio to organizations regulated</i>	In 2003, COF revenue was \$14,681,062, relative to 1,921 member foundations.
<i>- focus of the entity</i>	The COF's focus is member services, including lobbying on behalf of its members, as well as regulation with compliance with Standards.
<i>- pre-certification</i>	To apply, an organization must certify that it has complied with all appropriate state registration and reporting requirements. It also must state that it subscribes to the recommended Principle and Practices for Effective Grantmaking of the Council on Foundations. It must submit the Form 990 or Form 990PF at the time of application.
<i>- post-certification</i>	While the COF offers educational conferences and online resources, there are no post-certification requirements. There is no regular review of members unless a problem is brought to the attention of the COF.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	The COF's funding come from dues, grants and contributions, professional development, publications and investments.
<i>- whistle blower protection</i>	No. However, they are in the process of establishing a policy.
<i>- investigatory power</i>	Yes. This investigation consists of an examination of publicly available information or information provided by the foundation in question.
<i>- robustness of process</i>	Low. The COF inquires into reports brought to its attention by any source, including the media and the general public. It relies on information provided by the foundation for its investigation.
<i>- site visits</i>	No. The COF does not conduct site visits.
<i>- regulating body does self-evaluations</i>	Yes. The COF makes an Independent Auditor's Report available online but does not otherwise self-evaluate.

Evangelical Council for Financial Accountability

www.ecfa.org

EIN Number: 93-0744698

NTEE Code: X21

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	If the member is cooperative, there is generally an opportunity for correction. Otherwise, there may be a resignation, suspension, or termination of membership and accreditation.
- <i>history of enforcement</i>	The ECFA has been in operation for 26 years. In the last 10 years, there has been a high of 11 annual terminations and a low of 1 annual termination. Requests for correction are more common. The threat of expulsion is a serious possibility.
- <i>disclosure of sanctions</i>	Yes. The ECFA discloses sanctions on its website and on the annual membership list. In particularly egregious situations, the ECFA will issue a press release.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	No. Membership is not mandatory.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Christianity-based charity organizations are eligible for membership in the ECFA.
- <i>specificity of activity regulated</i>	Narrow. The ECFA focuses on financial accountability.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are widely available.
- <i>disclosure of process</i>	Yes. The process is disclosed online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	A staff of 4 full-time and 6 part-time regulators is joined by a Standards Committee with 10 pro bono members. This is relative to 1,150 member organizations.
<i>- budget ratio to organizations regulated</i>	The budget for regulation is about \$1.3 to \$1.5 million, relative to 1,150 members.
<i>- focus of the entity</i>	The focus of the entity is regulation and accreditation.
<i>- pre-certification</i>	Pre-certification includes an application and a statement of faith.
<i>- post-certification</i>	Every fiscal year, members must submit audited financials. 35-40% of members do not get recertified each year without some additional required compliance.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	Funding derives primarily from dues, which range from \$300 to \$8,000, depending on the size of the organization.
<i>- whistle blower protection</i>	Yes. The ECFA will not disclose the identity of any whistle blower. But, the ECFA cannot protect any whistle blower within his or her own organization.
<i>- investigatory power</i>	Yes.
<i>- robustness of process</i>	The robustness of process is high.
<i>- site visits</i>	Yes. The ECFA conducts mandatory site visits; timing is at the discretion of the ECFA.
<i>- regulating body does self-evaluations</i>	No.

InterAction American Council for Voluntary International Action Inc. Membership

www.interaction.org

EIN Number: 13-3287064

NTEE Code: Q03

Factor	Description
<i>SANCTIONS</i>	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	If a member does not complete its annual self-certification, it is suspended from membership. If there is another violation, the member has a year to correct the violation. If it does not do so, it is suspended from membership.
- <i>history of enforcement</i>	Since InterAction allows for correction in the case of a violation, it is rarely required to suspend a member. Suspension has only occurred once since InterAction was formed in 1984.
- <i>disclosure of sanctions</i>	No. The only disclosure is that InterAction removes the suspended organization from its membership list.
<i>VALUE OF ACCREDITATION</i>	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes. InterAction has more than 160 members, and coalitions in Japan and China have used the standards as a model for their own standards.
- <i>monopoly power</i>	No. Membership with InterAction is not mandatory.
<i>SPECIFICITY</i>	
- <i>specificity of sector or sub-sector regulated</i>	InterAction members are US nonprofits involved in international humanitarian work. InterAction regulates their international operations only. The sector includes child sponsorship organizations, health care agencies, and both faith-based and secular organizations.
- <i>specificity of activity regulated</i>	InterAction standards cover a broad array of activities performed by its members, including financial management, fundraising, governance, and program performance.
<i>TRANSPARENCY</i>	
- <i>dissemination of standards</i>	Yes. The standards are widely available.
- <i>disclosure of process</i>	Yes. The process is disclosed online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	InterAction has 35 staff, 2 of whom are dedicated to member certification. This is relative to its more than 160 members.
<i>- budget ratio to organizations regulated</i>	From revenue of \$5,067,694 in FY 2003, about \$500,000 was dedicated to the certification of its more than 160 members.
<i>- focus of the entity</i>	The focus of the entity is member services and standard-setting.
<i>- pre-certification</i>	The only required pre-certification is that the entity certifies compliance with InterAction standards.
<i>- post-certification</i>	Member organizations must self-certify annually.
<i>- immediacy of the threat of gov't regulation</i>	There is no immediate threat of government regulation.
<i>- source of funding</i>	InterAction funding comes from contributions, government grants, program services, investments, dues, and fees.
<i>- whistle blower protection</i>	Yes. InterAction has a whistle blower protection policy.
<i>- investigatory power</i>	InterAction's investigatory power is only applicable in cases on known non compliance.
<i>- robustness of process</i>	The self-regulation process is not robust. The InterAction website states that the Standards are "best understood as statements of principles and, as such, are not requirements."
<i>- site visits</i>	No. Site visits are not performed.
<i>- regulating body does self-evaluations</i>	Yes. InterAction self-evaluates.

**InterAction American Council for Voluntary International Action Inc. Child Sponsorship
 Accreditation Program**
 www.interaction.org
 EIN Number: 13-3287064
 NTEE Code: Q03

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	If a program is found to be in violation, it will lose its certification.
- <i>history of enforcement</i>	This is a new program; there have not been any enforcement actions to date.
- <i>disclosure of sanctions</i>	No. The only “sanction” is that InterAction removes the suspended organization from its accredited organization list.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry “buy-in”</i>	Yes. Though new, this program has enjoyed industry “buy-in.”
- <i>monopoly power</i>	No. Accreditation through InterAction is not mandatory.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	InterAction members and child sponsorship organizations are able to be accredited through this program.
- <i>specificity of activity regulated</i>	InterAction accreditation covers a broad array of activities performed by agencies, including financial management, fund-raising, governance, and program performance.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The standards are widely available.
- <i>disclosure of process</i>	Yes. The process is disclosed online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	One in-house staff member is assisted by Social Accountability International. This group is under contract to accredit the child sponsorship agencies and examine them for compliance. This is relative to its 5 accredited entities in addition to new applicants for accreditation.
<i>- budget ratio to organizations regulated</i>	The agency being accredited pays all of its accreditation costs.
<i>- focus of the entity</i>	Accreditation is part of the work of the larger InterAction organization. This program is distinct from InterAction's general membership certification program.
<i>- pre-certification</i>	Pre-certification requirements include applications, document review, and site visits.
<i>- post-certification</i>	After certification, site visits at international sites are made twice annually. In addition, the organization must be re-accredited every 4 years.
<i>- immediacy of the threat of gov't regulation</i>	There is no immediate threat of government regulation.
<i>- source of funding</i>	The organizations being accredited are the exclusive source of funding for the accreditation program.
<i>- whistle blower protection</i>	Yes. InterAction has a whistle blower protection policy.
<i>- investigatory power</i>	The investigatory power is primarily in the hands of sub-contractor Social Accountability International, which conducts site visits at international sites and monitors agencies for compliance.
<i>- robustness of process</i>	The self-regulation process is robust. Accredited agencies are required to provide substantial documentation and permit frequent site visits.
<i>- site visits</i>	Yes. Site visits are performed.
<i>- regulating body does self-evaluations</i>	Yes. InterAction self-evaluates and this self-evaluation process involves this program as well.

Joint Commission on Accreditation of Healthcare Organizations

www.jcaho.org

EIN Number: 36-2229255

NTEE Code: E03

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	Accreditation “deems organization qualified as a Medicaid/Medicare recipient.” Also, serious violations of standards that may jeopardize the health or safety of the public are reported to the government or to licensing agencies.
- <i>other enforceability</i>	A list of accredited organizations and their survey results are posted on the JCAHO website.
- <i>history of enforcement</i>	The JCAHO has been accrediting healthcare organizations for more than 50 years.
- <i>disclosure of sanctions</i>	Yes. The “Quality Check” section of the JCAHO’s website provides a search engine to determine what, if any, disciplinary actions have been taken against accredited organizations. Other information, such as how the organization best suits the inquirer’s needs and how the organization meets safety goals, is also provided. Quality Check is updated daily. It also lists “Special Quality Distinction Awards” to high-performing organizations.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry “buy-in”</i>	Yes.
- <i>monopoly power</i>	Yes.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The JCAHO accredits a range of health care organizations (hospitals, healthcare networks, nursing homes, etc.).
- <i>specificity of activity regulated</i>	The JCAHO regulates a broad array of activities performed by healthcare organizations.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are widely available.
- <i>disclosure of process</i>	Yes. The process is available online or in print upon request.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The JCAHO has more than 1,000 staff, relative to its more than 15,000 accredited organizations.
<i>- budget ratio to organizations regulated</i>	With revenue of \$85,292,219 in 2003 relative to its more than 15,000 accredited organizations.
<i>- focus of the entity</i>	The JCAHO is focused on accreditation only.
<i>- pre-certification</i>	Pre-certification requirements include allowing unannounced site visits, called "surveys." Organizations complete an application.
<i>- post-certification</i>	Accredited organizations must undergo on-site, extensive reviews at least once every 3 years. Laboratories are accredited every 2 years.
<i>- immediacy of the threat of gov't regulation</i>	Yes.
<i>- source of funding</i>	The JCAHO receives its funding from program services, such as survey fees, and investment income.
<i>- whistle blower protection</i>	Yes. The JCAHO provides whistle blower protection.
<i>- investigatory power</i>	Yes. The JCAHO has strong investigatory power.
<i>- robustness of process</i>	The robustness of this accreditation process is quite high. One method used is to track a particular patient through his or her entire interaction with an organization and measure the organization's performance. In February 1997, the Joint Commission launched its ORYX® initiative, which integrates outcomes and other performance measurement data into the accreditation process.
<i>- site visits</i>	Yes. The JCAHO does conduct site visits, including unannounced visits in the event of a complaint. If an organization refuses to allow this visit, it will lose its accreditation.
<i>- regulating body does self-evaluations</i>	Yes. The JCAHO self-evaluates.

Land Trust Alliance
 www.lta.org
 EIN Number: 04-2751357
 NTEE Code: C34

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	Some public funders ask for a statement of adoption of LTA Standards and Practices; this allows local land trust alliances access to greater funding. Also, if a local land trust alliance is not a member of the national organization, it is not eligible for certain matching grants from the LTA. In 2003, the LTA gave \$973,000 in matching grants to help build organizational capacity and conserve land; it also distributed \$59,400 in scholarships to help train the boards of small land trusts.
- <i>history of enforcement</i>	
- <i>disclosure of sanctions</i>	No.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes. The number of land trusts is growing rapidly, having increased 26% from 1998 to 2003. Of the more than 1,500 national land trusts, 1,085 were members in 2003.
- <i>monopoly power</i>	No.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Local land trusts are regulated. However, individuals, nonprofit organizations, and professionals may become members as well.
- <i>specificity of activity regulated</i>	Broad. The Standards cover all aspects of operating and managing a land trust.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The Standards and Practices, including the 2004 revisions, are available online or in print, upon request.
- <i>disclosure of process</i>	No. The process for enforcement of these standards is not publicly disclosed.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The 40-person staff is responsible for more than 1,000 nonprofit land trusts.
<i>- budget ratio to organizations regulated</i>	The LTA's revenue of \$4,825,974 in 2003 is relative to more than 1,000 nonprofit land trusts.
<i>- focus of the entity</i>	Member services are the focus of the LTA, including political activity on the behalf of members, maintaining an online library for their use, publishing materials, holding conferences, and providing matching grants and scholarships to its members.
<i>- pre-certification</i>	Prerequisites for land trust membership include certification of 501(c) (3), local/municipal land trust status, certification of adoption of Standards and Practices, and payment of dues.
<i>- post-certification</i>	All local land trust must certify adoption of the revised 2004 standards, which will go into effect in mid-2005.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	Funding comes from contributions, government grants, program services, investments, and publication sales.
<i>- whistle blower protection</i>	
<i>- investigatory power</i>	No. Local land trusts self-certify.
<i>- robustness of process</i>	The membership maintenance process is not robust.
<i>- site visits</i>	No.
<i>- regulating body does self-evaluations</i>	No. The LTA follows its own Standards and Practices but does not conduct formal self-evaluations.

Maryland Association of Nonprofit Organizations
Standards for Excellence Institute
 www.marylandnonprofits.org
 EIN Number: N/A
 NTEE Code: N/A

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	If a certified organization does not comply with Standards for Excellence, it would lose that seal.
- <i>history of enforcement</i>	One seal was revoked for failure to meet all standards; one organization was ineligible for recertification, but was given a time frame to achieve recertification.
- <i>disclosure of sanctions</i>	Yes. A list of certified organizations is published, and if an organization loses certification, the seal is removed. Loss of certification is announced publicly, though failure to be certified upon application is not announced publicly. The above-mentioned seal revocation was reported and commented on in the <i>Wall Street Journal</i> . (Aug. 18, 2004).
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes. Of the 1,458 members of the Maryland Association of Nonprofit Organizations, 90 already have been certified since the Standards for Excellence was launched in Maryland in 1998. (The Standards for Excellence Institute only has been in existence since June, 2004).
- <i>monopoly power</i>	No.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The Maryland Association of Nonprofit Organizations (Maryland Nonprofits) has a membership consisting of Maryland nonprofit organizations. The Standards for Excellence Institute has partnerships with nonprofit associations in Pennsylvania, Louisiana, Georgia, North Carolina, and Ohio, and hopes to make its standards national.
- <i>specificity of activity regulated</i>	Broad. The Standards cover all aspects of operating and managing a nonprofit organization.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The Standards are available online and in print.

- <i>disclosure of process</i>	No. The process for enforcement of these standards is not disclosed publicly. Certified organizations receive a license agreement and materials concerning process when they apply for certification.
OTHERS	
- <i>staff ratio to organizations regulated</i>	The 3-person Standards of Excellence Institute staff is relative to the 90 certified organizations. There is also a staff member at each location that has entered into replication agreements.
- <i>budget ratio to organizations regulated</i>	Maryland Nonprofit's revenue in 2003 was \$3,303,693, relative to its 1,458 members. The Standards for Excellence Institute's work is funded by those organizations seeking certification.
- <i>focus of the entity</i>	The Standards for Excellence Institute's focus is on certification and replication of the Standards in other jurisdictions. The Institute is part of the larger Maryland Nonprofits, which is focused on certification of its members in addition to member services. These services include training and technical assistance, cooperative buying programs for the purchase of employee benefits, office equipment and supplies, information sharing and networking, public policy advocacy, research, public education, and public relations.
- <i>pre-certification</i>	Prerequisites for certification include an application and an application fee. Maryland Nonprofits offers an optional training clinic, but it is not a prerequisite for certification.
- <i>post-certification</i>	Continuing education is offered, but is not required. Recertification takes place initially after 3 years, and every 5 years thereafter. Seal holders may be requested to provide updated information and documentation.
- <i>immediacy of the threat of gov't regulation</i>	No.
- <i>source of funding</i>	The Standards for Excellence Institute's major fundraising sources are philanthropic grants and earned income.
- <i>whistle blower protection</i>	Certified organizations are required to incorporate whistle blower protections as a prerequisite to earning certification.
- <i>investigatory power</i>	Yes. The License Agreement signed by members grants investigatory power to the Institute. Investigations and follow-up activity are overseen by the Ethics and Standards Committee.
- <i>robustness of process</i>	The certification process is robust; it includes a complaints procedure and may include site visits.
- <i>site visits</i>	Yes, the License Agreement gives the Institute authority to conduct site visits if they are deemed to be necessary.
- <i>regulating body does self-evaluations</i>	Yes. Maryland Nonprofits conducts Annual Member Satisfaction Surveys and follows its own Standards. The Standards for Excellence program is independently examined by evaluators from Brandeis University.

Middle States Association of Colleges and Schools
Commission on Higher Education
 www.msche.org
 EIN Number: 23-2786118
 NTEE Code: B90

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	The Higher Education Act of 1963, Title IV Student Assistance Program, requires schools to be accredited by a certified accrediting agency in order to be eligible for federal funding.
- <i>other enforceability</i>	An unaccredited school faces many difficulties, apart from not being mentioned on the Association's list of accredited schools. Students are not eligible for federal grants, and may not be able to transfer academic credits to other, accredited schools.
- <i>history of enforcement</i>	Between November of 2004 and March 2005, the Commission reported that accreditation had been granted to 2 institutions, initial accreditation was granted to 2 institutions, warning removed and accreditation was reaffirmed in the case of 1 institution, substantive change was reported in 16 institutions, and 41 follow-up reports/candidate reports/visits/developments were reported. Loss or denial of accreditation is rare since the application process is long and most "weak" candidates drop out before they face sanctions by the Association.
- <i>disclosure of sanctions</i>	Yes. If a school loses its accreditation or has intermediate action taken against it, that information will be made public.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	Yes. The MSCHE is the only regional body that accredits entire institutions. However, there are national and specialized accreditors that can and do accredit entire institutions and/or programs within the institution.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Institutions of higher education in Washington D.C., Delaware, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the US Virgin Islands are regulated by the Middle States Association.
- <i>specificity of activity regulated</i>	The Association regulates all aspects of the operation of colleges and universities.

TRANSPARENCY	
- dissemination of standards	Yes. Standards are widely available.
- disclosure of process	Yes. The process is described in detail online.
OTHERS	
- staff ratio to organizations regulated	A staff of 17 is relative to more than 500 institutions of higher education in Delaware, Washington D.C., Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands. Also, 10 to 15 institutions may be at varying stages in the application process at any time. This is possible because the Association is able to draw on the free services of approximately 3,000 experts who volunteer to participate in the accreditation process.
- budget ratio to organizations regulated	The accreditation budget is approximately \$3.3 million, which is relative to more than 500 institutions of higher education in Delaware, Washington D.C., Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, and the U.S. Virgin Islands, as well as 10 to 15 applicant schools.
- focus of the entity	Accreditation activities are a part of the work of a larger organization.
- pre-certification	Institutions must file an application and prove that they meet "Characteristics of Excellence" standards.
- post-certification	Post-certification requirements include site visits and requests for documentation, a self-study report, and re-accreditation after 10 years, then again after 5.
- immediacy of the threat of gov't regulation	No.
- source of funding	Funding comes from dues, fees, government grants, and investments.
- whistle blower protection	Yes. A complainant's identity is not disclosed to the institution without his or her consent.
- investigatory power	Yes. The Association has investigatory power.
- robustness of process	The accreditation process is very robust.
- site visits	Yes. The Association conducts site visits.
- regulating body does self-evaluations	Yes. The Association must meet Department of Education standards.

National Council of YMCAs of the USA

www.ymca.net

EIN Number: 36-3258696

NTEE Code: P27

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	Sanctions include loss of membership or probation if not in compliance with Y mission and non-discrimination policy, or for failure to pay dues. Failure to pay dues is the most common cause for sanctions.
- <i>history of enforcement</i>	The Y was established in 1851. In 2003, 132 Y branches had “conditional” membership and 6 were on probation.
- <i>disclosure of sanctions</i>	Yes. These disciplinary actions are listed on a members-only website.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry “buy-in”</i>	Yes.
- <i>monopoly power</i>	Yes. If an organization wants to use the “YMCA” name.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The YMCA of the USA regulates local YMCAs.
- <i>specificity of activity regulated</i>	Broad. The national organization’s standards include all aspects of Y operation, including funding, facilities, recreation provided, etc.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The Y standards are available online or in print upon request.
- <i>disclosure of process</i>	Yes. The process is available online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The YMCA of the USA's 241 staff is relative to its 974 member YMCAs and 1,601 branches.
<i>- budget ratio to organizations regulated</i>	Revenue of \$78,770,024 in 2003 is relative to 974 member YMCAs and 1,601 branches.
<i>- focus of the entity</i>	The Y provides member services, including publications, products, research, and training.
<i>- pre-certification</i>	Prerequisites for membership include basic guidelines such as having a service area of more than 25,000 people within a 7-mile radius, a "start-up fund" of \$200,000 to \$300,000, and an experienced YMCA senior director on staff.
<i>- post-certification</i>	Post-certification, the YMCA of the USA requires an annual report and IRS 990 forms. It also offers continuing education.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	The YMCA of the USA's funding comes from public support, government grants, fees and contracts, membership dues, and interest.
<i>- whistle blower protection</i>	
<i>- investigatory power</i>	No. The YMCA of the USA relies on submissions by local YMCAs to ensure compliance.
<i>- robustness of process</i>	This process is not robust.
<i>- site visits</i>	No. The YMCA of the USA does not perform site visits.
<i>- regulating body does self-evaluations</i>	Yes. The YMCA of the USA is continually audited and monitored to ensure that its services in support of local YMCA associations are effective.

Public Company Accounting Oversight Board

www.pcaobus.org

EIN Number: 74-3073065

NTEE Code: N/A

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	Sarbanes-Oxley §105 (2002) empowers the PCAOB to oversee all registered public accounting firms.
- <i>other enforceability</i>	The PCAOB is authorized to impose fines, remedial measures such as training, new quality control procedures, or the appointment of an independent monitor, and revocation of registration.
- <i>history of enforcement</i>	This is a new agency which was founded in early January 2003; there have been no public disciplinary actions yet.
- <i>disclosure of sanctions</i>	If and when disciplinary actions are taken in the future, that information will be made public.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	N/A. The government funds the PCAOB.
- <i>ability to market to members</i>	N/A. The PCAOB does not have members.
- <i>industry "buy-in"</i>	Yes. Compliance with the PCAOB is required.
- <i>monopoly power</i>	Yes. The PCAOB has monopoly power.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	All registered public accounting firms are regulated by the PCAOB.
- <i>specificity of activity regulated</i>	The regulated activity is broad. The PCAOB monitors compliance with its own rules, with any provisions of the securities laws relating to the preparation and issuance of audit reports, and with professional standards. PCAOB rules concern auditing and related attestation, quality control, ethics, and independence standards in preparation and issuance of audit reports.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The standards are available online.
- <i>disclosure of process</i>	Yes. The process is described online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	With 262 employees at the beginning of 2005, the PCAOB expects to increase to 450 by the end of the year. This is relative to the 893 firms in the US and 76 internationally that are regulated by the PCAOB.
<i>- budget ratio to organizations regulated</i>	The PCAOB had revenue of \$101,247,000 in 2004, relative to 893 firms in the US and 76 internationally.
<i>- focus of the entity</i>	The PCAOB is involved in registration, inspection, enforcement, and investigation.
<i>- pre-certification</i>	Registration process including a 19 page application form and payment of fees.
<i>- post-certification</i>	Annual or triennial inspections are conducted on registered firms.
<i>- immediacy of the threat of gov't regulation</i>	The government has created and authorized the PCAOB to do this work.
<i>- source of funding</i>	The government is the source of funding for the PCAOB.
<i>- whistle blower protection</i>	Yes. The PCAOB recommends that anyone who has complained make a report to OSHA (Occupational Safety and Health Administration) in case of retaliation.
<i>- investigatory power</i>	Yes. The PCAOB has power both to "inspect" and to "investigate." It has a continuing program of inspections of registered public accounting firms, as is required by Section 104 of the Sarbanes-Oxley Act of 2002. These inspections are conducted annually for large firms, and triennially for smaller firms. Investigations may be made concerning any acts or practices, or omissions to act, by firms or persons associated with those firms who may have violated any relevant rules. Firms and associated persons are required to cooperate with the PCAOB, including producing documents and testimony. The PCAOB is also permitted to seek information from other persons, including the clients of registered firms.
<i>- robustness of process</i>	The process is very robust, including inspection, investigation, hearings, and sanctions.
<i>- site visits</i>	Yes. Site visits are conducted.
<i>- regulating body does self-evaluations</i>	Yes. The PCAOB self-evaluates. It also hires an independent auditor to complete an audit each year.

United Way of America
<http://national.unitedway.org>
 EIN Number: 13-1635294
 NTEE Code: T70

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	The UWA may terminate membership of local United Ways or put local organizations on probation.
- <i>history of enforcement</i>	Since the new Accountability and Financial Standards were put in place in 2003, 59 local United Ways have been disaffirmed.
- <i>disclosure of sanctions</i>	No. Sanctions are not publicly disclosed. However, upon termination, a local United Way may no longer use the United Way logo or be listed on the UWA website.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	Yes. If a local organization wants to use the name "United Way," it must be part of the larger national organization.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	Local United Way organizations are regulated.
- <i>specificity of activity regulated</i>	All aspects of local United Way management and activities are regulated.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The standards are available online or in print.
- <i>disclosure of process</i>	Yes. The process is disclosed. The Membership Status Review Procedures for Current Members, adopted on September 10, 2002, are available upon request.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The UWA's 10 Membership Accountability staff is relative to 1,348 local United Ways.
<i>- budget ratio to organizations regulated</i>	The UWA's revenue of \$28,597,444 in 2003 is relative to 1,348 local United Ways.
<i>- focus of the entity</i>	Membership accountability is one activity of the UWA's, which is involved in national leadership, public policy, research, and membership support.
<i>- pre-certification</i>	Membership requirements include training, submitting IRS form 990, paying dues, and agreeing to the Standards of Excellence.
<i>- post-certification</i>	Local United Ways are required to submit annual independent financial audits and self-evaluations triennially.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	United Way's funding comes from contributions, government grants, program services, dues, interest, dividends and rental income.
<i>- whistle blower protection</i>	No. The UWA does not have whistle blower protection, but local United Ways are required to have whistle blower policies. UWA does not handle anonymous complaints.
<i>- investigatory power</i>	Yes, the UWA Member Services Committee has investigatory authority when it finds that a member may be in breach.
<i>- robustness of process</i>	The process, while it does include an appeals process, is not robust.
<i>- site visits</i>	No, site visits are performed.
<i>- regulating body does self-evaluations</i>	Yes, the UWA self-evaluates and holds itself to its own Standards.

Western Association of Schools and Colleges

www.wascweb.org/senior/

EIN Number:

NTEE Code:

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	The Higher Education Act of 1963, Title IV, requires accreditation of institutions of higher education in order to be eligible for government funding.
- <i>other enforceability</i>	If a school fails to receive accreditation, or loses accreditation, this will be made public. The Association also may issue warnings. In addition, students at non-accredited schools may not be able to transfer credit to other institutions of higher education.
- <i>history of enforcement</i>	The Association issued 3 warnings in 2004-2005.
- <i>disclosure of sanctions</i>	Yes. All disciplinary actions except for a "Notice of Concern" are made public.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	Yes.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes.
- <i>monopoly power</i>	Yes. No other accrediting body exists in that region. While accreditation is not mandatory, all schools seek it because of its benefits.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The Association regulates all institutions of higher education in California, Hawaii, and the Pacific Basin.
- <i>specificity of activity regulated</i>	This regulation is broad. It covers all aspect of operation of institutions of higher education in its region.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are available online and in print.
- <i>disclosure of process</i>	Yes. The process is disclosed online and in handbooks, available upon request.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The Association has 25 members of the accreditation commission and 5 staff, relative to 151 accredited institutions.
<i>- budget ratio to organizations regulated</i>	In 2003, the entire association had revenue of \$6,262,565, relative to 151 accredited institutions.
<i>- focus of the entity</i>	Accreditation is the primary activity of the organization.
<i>- pre-certification</i>	Prerequisites for accreditation, such as having been in operation for a specified period of time, self-evaluation, etc., and an application process.
<i>- post-certification</i>	Each school must file annual reports, will be visited at least every ten years, and undergoes comprehensive self-evaluation every 10 years. It also must report any substantive changes, such as opening a satellite branch, to the Association.
<i>- immediacy of the threat of gov't regulation</i>	
<i>- source of funding</i>	The source of Association funding is dues and fees, government grants, investments, program services, and sales.
<i>- whistle blower protection</i>	Yes.
<i>- investigatory power</i>	Yes. The investigatory power is quite broad.
<i>- robustness of process</i>	The process is very robust, with a detailed complaints procedure, investigation procedure, and appeals procedure.
<i>- site visits</i>	Yes. Site visits are conducted.
<i>- regulating body does self-evaluations</i>	Yes. The Association must meet Department of Education standards and is reviewed periodically by the US Department of Accreditation. In addition, the Association self-evaluates.

- (2) Entities that Regulate Individuals: The following entities regulate individuals:
- a. **American Society of Association Executives**: The ASAE accredits interested members pursuant to a Certified Association Executive Program. The program does not reflect an effective self-regulatory scheme because (1) certification is completely voluntary and not required for ASAE membership, (2) the program lacks any sort of sanctions for failure to qualify for certification, and (3) only 21.5 percent of ASAE's members are certified, indicating very limited industry buy-in and marketability to members.
 - b. **New York State Bar Association**: The NYSBA, with more than 70,000 members, is the nation's largest voluntary statewide association of lawyers. It disseminates the Lawyer's Code of Professional Responsibility and makes recommendations to the courts regarding disciplinary actions against attorneys, but all disciplinary actions and disbarments are handled by the courts. The effectiveness of this regulatory scheme is limited by the NYSBA's lack of sanctions, particularly the authority to disbar attorneys.
 - c. **State Bar of California**: Created by the state legislature in 1927, the State Bar is a public corporation within the judicial branch of government, serving as an arm of the California Supreme Court. Membership in the State Bar is a requirement for practicing law in California. Although only the courts can disbar attorneys in California, the State Bar does have several enforceable sanctions available to it, including temporary suspension of attorneys. The State Bar is an effective model of self-regulation based on (1) mandatory membership (monopoly power) and (2) enforceable sanctions for noncompliance with standards.

Our analysis of the selected self-regulatory entities that regulate individuals concluded that certain factors, alone or in combination, were the most significant for creating an effective self-regulatory scheme. Probably the single most significant factor contributing to the effectiveness of self-regulatory models that regulate organizations is *legal enforceability* of sanctions. A second significant set of factors contributing to the efficacy of self-regulatory schemes that regulate individuals is the authority to accredit individuals coupled with the authority to withdraw the accreditation, particularly when this certification or accreditation is required to enable to the regulated individuals to engage in the activities for which he or she is being regulated (*monopoly power*). These factors may be even more powerful where (1) the organization has a strong history of enforcing its sanctions, (2) where the processes of accreditation and required reaccreditation are robust, particularly

if site visits are required, and (3) where sufficient staff and budget are allocated to the regulatory function of the self-regulatory body.

**American Society of Association Executives
Certified Association Executive Program**

www.asaenet.org

EIN Number: 53-0026940

NTEE Code: Z99

Factor	Description
<i>SANCTIONS</i>	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	An executive faces revocation of membership “for cause,” such as non-payment of dues.
- <i>history of enforcement</i>	
- <i>disclosure of sanctions</i>	No.
<i>VALUE OF ACCREDITATION</i>	
- <i>ability to market to funders</i>	No.
- <i>ability to market to members</i>	No.
- <i>industry “buy-in”</i>	No. Of members, only 21.5% are part of the Certified Association Executive Program.
- <i>monopoly power</i>	No. Certification by the ASAE, while widely recognized, is entirely voluntary.
<i>SPECIFICITY</i>	
- <i>specificity of sector or sub-sector regulated</i>	Association executives in the US.
- <i>specificity of activity regulated</i>	Narrow. Association management and ethics.
<i>TRANSPARENCY</i>	
- <i>dissemination of standards</i>	Yes. Standards are available online.
- <i>disclosure of process</i>	Yes. The certification process is detailed online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	134 total staff with 7 staff in membership department relative to 25,000 individual members, and 10,000 association members. 21.5% of individual members take part in the CAE Program.
<i>- budget ratio to organizations regulated</i>	In 2003, ASAE revenue was \$913,108, compared to 25,000 individual members, and 10,000 association members.
<i>- focus of the entity</i>	The ASAE performs member services and certification programs.
<i>- pre-certification</i>	The ASAE has prerequisites for certification application, including length of experience requirements and the passing of a stringent examination in association management.
<i>- post-certification</i>	Certification requires fulfilling continuing education requirements and applying for renewal every 3 years.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	ASAE's funding comes from contributions, program services and special events.
<i>- whistle blower protection</i>	
<i>- investigatory power</i>	No. The ASAE may revoke membership "for cause," but does not conduct investigations.
<i>- robustness of process</i>	Low.
<i>- site visits</i>	No. The ASAE does not conduct site visits.
<i>- regulating body does self-evaluations</i>	The ASAE conducts annual internal audits by a CPA recommended by the ASAE president or CEO. The ASAE does not generally self-evaluate.

Association of Fundraising Professionals

www.afpnet.org

EIN Number:

NTEE Code:

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No.
- <i>other enforceability</i>	Penalties for violation of the a <i>Code of Ethical Principles and Standards of Professional Practice</i> include a letter of reprimand; censure and prohibition against holding association and chapter office in AFP for one year; suspension of membership in AFP for a stated period; and, permanent expulsion from AFP membership, including withdrawal of any AFP sanctioned credential.
- <i>history of enforcement</i>	The AFP was started in 1960 and adopted the Code of Ethics in 1964. In 1992, it adopted its current Procedures for Enforcement of the Code of Ethical Principles and Standards of Professional Practice. There have been approximately 10-15 memberships revoked in the past 7 years.
- <i>disclosure of sanctions</i>	Yes. The AFP sends out an AFP-wide publication stating all the disciplinary actions taken by the AFP during the previous period. It will not disclose the name of the organizations involved, however, and is intended for educational purposes only. In the case of membership revocation, information stating the name of the organization involved will be posted on the AFP website and will be included in AFP newsletters.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	No.
- <i>ability to market to members</i>	Yes. Funders and members are the same; all funding comes from membership and programming dues.
- <i>industry "buy-in"</i>	Yes. The AFP has 26,000 individual members and 172 chapters throughout the United States, Canada, Mexico, and China.
- <i>monopoly power</i>	No.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	All fundraising professionals in the United States, Canada, Mexico, and China that want to join.
- <i>specificity of activity regulated</i>	The Code covers broad areas of fundraisers' practices.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. Standards are available online.
- <i>disclosure of process</i>	Yes. The process is detailed online.

OTHERS	
- <i>staff ratio to organizations regulated</i>	11 sitting committee members for 26,000 individual members.
- <i>budget ratio to organizations regulated</i>	\$10 million total budget as compared to 26,000 current members.
- <i>focus of the entity</i>	The AFP works to advance philanthropy through advocacy, research, education, and certification programs, primarily through setting and enforcing high ethical standards and principles for members of the fundraising community as set forth in its <i>Code of Ethical Principles and Standards of Professional Practice</i> in order to maintain public trust for every AFP member. AFP provides a self-governed process for addressing ethical concerns.
- <i>pre-certification</i>	Yes. There are three different categories of membership based on years of experience in the field. The AFP does not question the type of membership of its applicants and instead relies on the integrity of its members to self-regulate.
- <i>post-certification</i>	Yes. Every member organization must reaffirm their adherence to the Code of Ethics each year.
- <i>immediacy of the threat of gov't regulation</i>	No.
- <i>source of funding</i>	Membership and educational programming fees.
- <i>whistle blower protection</i>	No.
- <i>investigatory power</i>	The AFP has investigatory power.
- <i>robustness of process</i>	The disciplinary process is robust.
- <i>site visits</i>	Yes, the AFP's investigation may include site visits.
- <i>regulating body does self-evaluations</i>	The AFP's Board of Directors evaluates itself and the organization annually through an internal formal process.

New York State Bar Association

www.nysba.org
 EIN Number: N/A
 NTEE Code: N/A

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	No. The NY courts handle all disciplinary actions against lawyers. The State Bar is able to make recommendations to the courts about the rules or about individual cases, but its judgments are not final or legally enforceable.
- <i>other enforceability</i>	The State Bar may impose loss of membership, but this has never been reported except in the case of a lawyer having been disbarred by the courts first. In addition, it issues letters of caution, admonition, or reprimand.
- <i>history of enforcement</i>	No.
- <i>disclosure of sanctions</i>	No. Formal ethics opinions issued by the Committee on Professional Ethics can be purchased. These opinions are presented to the Court for its consideration in disciplinary procedures. Letters of caution, admonition, or reprimand are not made public but are retained as part of the attorney's record.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	No.
- <i>ability to market to members</i>	Yes.
- <i>industry "buy-in"</i>	Yes. New York has the largest number of members (70,000) of any state with a voluntary bar. However, many lawyers belong to their local city or county bars instead of the state-wide organization.
- <i>monopoly power</i>	No. New York has a voluntary bar.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The New York State Bar Association is concerned with legal practice in New York.
- <i>specificity of activity regulated</i>	Broad. The Bar is concerned with all aspects of legal practice.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The Lawyer's Code of Professional Responsibility is widely available.
- <i>disclosure of process</i>	Yes. The process is available online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The NYSBA's staff of 118 is relative to its 70,000 members.
<i>- budget ratio to organizations regulated</i>	The NYSBA's budget of \$21 million is relative to its 70,000 members.
<i>- focus of the entity</i>	Regulation of lawyers is one activity of the organization. It is also involved in influencing legislation, raising judicial standards, advocating voluntary pro bono legal services for the poor, and providing continuing education.
<i>- pre-certification</i>	Prerequisites for membership include having passed the bar exam.
<i>- post-certification</i>	Continuing education is required by the NY courts to maintain one's license, and continuing membership in the State Bar depends on not being disbarred by the courts.
<i>- immediacy of the threat of gov't regulation</i>	No.
<i>- source of funding</i>	Dues and fees from members provide the NYSBA's funding.
<i>- whistle blower protection</i>	Yes.
<i>- investigatory power</i>	Yes. The committee will investigate complaints.
<i>- robustness of process</i>	The robustness of the disciplinary process is medium. While the Committee on Standards of Attorney Conduct investigates violations, it has no enforcement capability. The most it can do is to make a recommendation to the courts.
<i>- site visits</i>	No.
<i>- regulating body does self-evaluations</i>	Yes. The State Bar self-evaluates.

www.calbar.ca.gov
 EIN Number: 94-6001385
 NTEE Code: N/A

Factor	Description
SANCTIONS	
<i>- legal enforceability</i>	The State Bar is an administrative arm of the California Supreme Court. Also, Chapter 342, Statutes of 1999, restored the Bar's authority to collect fees from California lawyers at an average rate of \$395/year for the year 2000.
<i>- other enforceability</i>	The independent State Bar Court recommends to the California Supreme Court whether to suspend or disbar lawyers. The State Bar may temporarily remove lawyers from practice ("involuntary inactive status") when they are deemed to pose a substantial threat of harm to clients or to the public. For lesser offenses, the State Bar may issue public or private reprovls. Suspension or disbaring of lawyers must be approved by the California Supreme Court.
<i>- history of enforcement</i>	California was one of the first unified bars in the US, having unified in 1927. In 2002, it received 12,051 complaints. It resolved 4,852 situations. In 2002, the Office of the Chief Trial Counsel issued 69 warning letters, 98 resource letters, 39 agreements in lieu of discipline, 2,867 dismissals, 587 terminations; in 88 cases resignations were tendered with charges pending; 146 stipulated disciplines were filed; and 402 notices of disciplinary charges were filed.
<i>- disclosure of sanctions</i>	Yes. Public reprovls may be issued. The public also may check an attorney's bar membership record online.
VALUE OF ACCREDITATION	
<i>- ability to market to funders</i>	Yes.
<i>- ability to market to members</i>	Yes. Funders and members are the same; all funding comes from membership fees and dues.
<i>- industry "buy-in"</i>	Yes. There is mandatory membership.
<i>- monopoly power</i>	Yes. California has a unified Bar and therefore membership is mandatory.
SPECIFICITY	
<i>- specificity of sector or sub-sector regulated</i>	The legal practice in CA is regulated by the State Bar.
<i>- specificity of activity regulated</i>	Broad. The California State Bar regulates all aspects of legal practice.
TRANSPARENCY	

- dissemination of standards	Yes. Standards are available online or in print.
- disclosure of process	Yes. The process is detailed online.
OTHERS	
- staff ratio to organizations regulated	With 200,321 lawyers in April 2005, California is the largest integrated bar in the nation. The State Bar Court has 10 judges.
- budget ratio to organizations regulated	In 2002, the California's State Bar's general fund budget was \$50.8 million, about 80% of which funded the Bar's attorney disciplinary activities. This is relative to California's 200,321 lawyers.
- focus of the entity	Regulation of lawyers, while a major activity of the Bar, is part of the organization's larger work. The Bar also provides continuing education, public services, aid in the development of pro bono programs, etc.
- pre-certification	Upon passing the bar in California and paying dues, a lawyer becomes a member.
- post-certification	The Bar requires 25 hours of continuing education every 3 years. The Bar offers "Ethics School" for attorneys found to be in need of remedial measures.
- immediacy of the threat of gov't regulation	No.
- source of funding	The state bar relies on dues and fees for its funding.
- whistle blower protection	Yes. Complaints can be made anonymously.
- investigatory power	Yes. The State Bar Court has investigatory power.
- robustness of process	The disciplinary process is robust.
- site visits	Yes. The State Bar Court's investigation may include site visits.
- regulating body does self-evaluations	Yes. The State Bar self-evaluates.

- (3) Entities that regulate both entities and individuals: The following entity regulates both entities and individuals:

National Association of Securities Dealers: The NASD is the primary private-sector regulator of America's securities industry. It is empowered as a regulator by the Maloney Act (15 USCS §780-3). The NASD licenses individuals and admits firms to the securities industry, writes rules to govern their behavior, examines them for regulatory compliance, and disciplines those who fail to comply. The NASD oversees and regulates trading in equities, corporate bonds, securities futures, and options, and provides education and qualification examinations to industry professionals while supporting securities firms in their compliance activities. The NASD has authority to fine, suspend, or expel any brokerage firm or registered securities representative that violates its standards. The NASD is quite powerful as a regulator because (1) its sanctions are legally enforceable, (2) its sanctions, including suspensions and fines, are comprehensible and effective, (3) it has a strong history of enforcing its sanctions, (4) its sanctions are publicly disclosed, and (5) its investigatory powers, guaranteed by law, are quite broad.

Our analysis of the selected self-regulatory entity that regulates both organizations and individuals concluded that the single most significant factor contributing to the effectiveness of this self-regulatory model is *legal enforceability* of sanctions.

National Association of Securities Dealers

www.nasd.com

EIN Number: 53-0088710

NTEE Code: Z99

Factor	Description
SANCTIONS	
- <i>legal enforceability</i>	15 USCS §780-3 (2004) (the “Maloney Act”) empowers the NASD to regulate the securities industry.
- <i>other enforceability</i>	The NASD has authority to fine, suspend, or expel any brokerage firm or registered securities representative that violates its standards.
- <i>history of enforcement</i>	The NASD was established in 1945; in 2003, 1,410 disciplinary actions were reported, 827 individuals were suspended or expelled from industry, and \$3 million in fines were collected.
- <i>disclosure of sanctions</i>	Yes. These sanctions are made public, and you can “Check Your Broker’s Background” on the NASD website. Also, monthly reports of disciplinary actions are posted online.
VALUE OF ACCREDITATION	
- <i>ability to market to funders</i>	N/A. The government funds the NASD.
- <i>ability to market to members</i>	N/A. The NASD does not have members.
- <i>industry “buy-in”</i>	Yes. NASD oversight is mandatory.
- <i>monopoly power</i>	Yes.
SPECIFICITY	
- <i>specificity of sector or sub-sector regulated</i>	The NASD regulates the securities industry.
- <i>specificity of activity regulated</i>	Broad. The NASD regulations affect all aspects of the operations of its constituents in the securities industry.
TRANSPARENCY	
- <i>dissemination of standards</i>	Yes. The regulations are readily available.
- <i>disclosure of process</i>	Yes. The process is detailed online.

<i>OTHERS</i>	
<i>- staff ratio to organizations regulated</i>	The NASD's 2,000 member staff is relative to the 5,100 firms and 659,000 securities representatives that it regulates.
<i>- budget ratio to organizations regulated</i>	The NASD's annual budget of more than \$500 million is relative to the 5,100 firms and 659,000 securities representatives that it regulates.
<i>- focus of the entity</i>	The NASD is involved in licensing and admission to the industry, writing rules to govern their behavior, examination for regulatory compliance, and discipline of those not in compliance with the regulations. It also provides education and qualification exams to industry professionals; oversees and regulates trading in equities, corporate bonds, securities futures, and options; and operates the largest securities dispute resolution forum in the world. It enforces not only its own rules, but also federal securities laws, rules, and regulations, and the rules of the Municipal Securities Rulemaking Board.
<i>- pre-certification</i>	The NASD issues licenses for entrance to industry.
<i>- post-certification</i>	The NASD examines for regulatory compliance.
<i>- immediacy of the threat of gov't regulation</i>	The government already has threatened to regulate, which is why the NASD was formed.
<i>- source of funding</i>	The federal government provides the NASD's funding.
<i>- whistle blower protection</i>	Yes. The NASD makes the process as confidential as possible, and has tools for filing tips on its website. However, it does not guarantee that the complainant's identity will not be discovered in the course of an investigation.
<i>- investigatory power</i>	Yes. The NASD has broad investigatory power.
<i>- robustness of process</i>	The robustness of the enforcement process is very high.
<i>- site visits</i>	Yes. The NASD conducts site visits.
<i>- regulating body does self-evaluations</i>	Yes. The NASD does self-evaluations.

Conclusions

Self-regulatory structures are frequently important contributors to the integrity, efficiency, and overall health of various economic sectors in our country. They are not merely important but are absolutely critical to the nonprofit sector, and most crucially to charities and social welfare organizations within it.⁶ Charities and social welfare organizations are, of course, subject to governmental oversight on both the federal and state levels. The resources dedicated to this vital task are vastly insufficient, however. On the federal level, Internal Revenue Service staffing has increasingly fallen behind the growth of the organizations it oversees.⁷ On the state level, there are only a handful of states where the Attorney General's charity office operates meaningfully.⁸

In the resulting partial vacuum of governmental oversight, self-regulation is an indispensable tool for setting standards, identifying malfeasance and misfeasance, and improving the integrity and efficiency of the nation's charities and social welfare organizations. Even if the current Congressional focus results in new legislation, self-regulation will continue to be a centrally important contributor not only to the improvement of nonprofit performance but also to the perception that the sector generally is performing properly. Because the nonprofit sector depends on public support, it must not only be, but be seen to be, subject to careful and vigilant oversight. Government oversight alone never has been and never will be sufficient to accomplish that task.

It follows that improving self-regulation is an extremely important goal for the nonprofit sector. To advance towards this goal, it will be helpful to identify organizations that have done it well, tease out the reasons why they have succeeded where others have not, and ascertain the factors or attributes that most significantly contribute to their effectiveness. Those insights, in turn, have the potential to con-

⁶ We here adopt the definitions of §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, as amended.

⁷ See, e.g., the data set forth in MARION R. FREMONT-SMITH, *GOVERNING NON-PROFIT ORGANIZATIONS: FEDERAL AND STATE LAW AND REGULATION* 460-61 (2004). The author concludes that “[t]he exempt organizations branch has continued to deal with inadequate personnel and outmoded computer systems,” and that “[t]he result has been a dearth of guidance in the form of revenue rulings and procedures, failure to improve reporting forms, and a reduction in the number of audits to a level that has raised concern as to the integrity of the system.” *Ibid.*

⁸ MARION R. FREMONT-SMITH, *op. cit. supra* n. 6, at 443, quoting with approval a characterization of such charity offices as “inactive, ineffective, understaffed, overwhelmed, or some combination of these.” In some jurisdictions, the state charity officials are not located in the office of the Attorney General, but those states are nevertheless included in the observations made above.

tribute to improved self-regulation by existing organizations and to the design and implementation of better new self-regulatory systems when and where appropriate.

Expectations, however, should remain nuanced. In a free society, no amount of governmental regulation and oversight, even coupled with vibrant and vigorous self-regulatory initiatives, will prevent all nonprofit fraud, misfeasance, or ineffectiveness. If the virtues of self-regulation are trumpeted with too much enthusiasm, disappointment is inevitable when scandals eventually occur. Protecting and promoting the luster of the sector is important, but that will best be accomplished by moderate, rather than hyperbolic, predictions of the benefits that accrue from self-regulation.

Probably the single most significant factor contributing to the effectiveness of any self-regulatory model is legal enforceability of its standards. This may at first appear to be an oxymoron: if self-regulation is, by definition, regulation by organizations other than governments, how can *legal* enforceability be an attribute of *self*-regulation? There are instances, however, in which non-governmental organizations have been allowed to establish their own standards (not designed or dictated by government) for regulating a sector, but with sanctions for non-compliance imposed by laws adopted by the government. For example, the National Association of Securities Dealers (“NASD”) is not a governmental organization, but its standards and procedures for regulating brokers and dealers in the securities markets are sanctioned by federal law. The Public Company Accounting Oversight Board (“PCAOB”) is similarly effective based on the legal enforceability of its sanctions.

There is a subtle line to observe here: if government, in addition to providing legal sanctions, intrudes unduly into either the substance of self-regulatory standards or the processes by which they are applied, the so-called self-regulatory organization may become a mere agent of the government. In this report, it is assumed that self-regulatory standards and procedures, even if subject to legal sanctions, will be established and implemented without undue influence from government. While it is not possible to state any precise delimitation of permissible governmental participation, if government moves too far from respectful observer to participating standard setter, the resulting model will not be and should not be considered to be self-regulation.

Short of legally enforceable sanctions, a self-regulatory system with other meaningful sanctions may also be quite powerful. The best example is the authority to accredit organizations coupled with the authority to withdraw the accreditation, when the accreditation is required either (1) to enable to the organization to engage in the activities for which it is formed (monopoly power) or (2) for funding by government and private grant makers (ability to market to funders).

The Middle States Association of Colleges and Schools and the Western Association of Schools and Colleges, like several other similar bodies charged with accrediting U.S. colleges and universities, are not governmental organizations, set their own standards and criteria for evaluating tertiary institutions, and perform

their own accreditations. Their findings, however, are relied on by government in granting or withholding funding of the institutions subject to such accreditation. The Middle States Association of Colleges and Schools and the Western Association of Schools and Colleges thus represent two of the most potent examples of self-regulatory schemes based primarily on the impact of their accreditations on major funders.

Other examples of effective self-regulatory schemes, although lacking both legal enforceability and monopoly power, are the American Association of Museums and the Evangelical Council for Financial Accountability. Although membership in both organizations is purely voluntary, funding for regulated organizations is often predicated on membership and accreditation. Both organizations have strong histories of revoking accreditations when appropriate, precipitating a meaningful impact on access to necessary funds. Both organizations also employ robust and complex processes for attaining and maintaining accreditation, including substantial application requirements, recertification, and site visits.

Effective monopoly power without legal enforceability is illustrated by the Australian Council for International Development, the Joint Commission on Accreditation of Healthcare Organizations, the National Council of YMCAs of the USA, the State Bar of California, and the United Way of America. These self-regulatory bodies are quite effective because they have enforceable authority to preclude organizations or individuals from a career or profession or line of business by revoking accreditation. This is a severe sanction and thus sustains substantial compliance with the standards of practice established by those organizations. In order for this factor to be strong, however, the self-regulatory body must control or significantly influence access to a meaningful area of activity or employment, and it must have the necessary staff, budget, powers, and processes to make the risk of expulsion for noncompliance substantial. The organization's history of enforcement is also material.

The specificity of standards is also a factor influencing self-regulatory effectiveness. Standards designed for the regulation of the financial affairs of religious organizations may be more focused and admit of more clarity and precision than standards covering the ethical or managerial behavior generally of all organizations in the nonprofit sector. The tighter the focus — either of the nature of the regulated conduct or of the members of the regulated class — the more likely it is that the self-regulatory standards will be clearly understood by those subject to them, viewed by them as relevant and appropriate, and embraced in practice. Conversely, the broader the coverage of the standards — in substance or applicability — the greater the risk that they may be seen as overly general, perceived as “soft” and perhaps even irrelevant, and given merely lip service. This would be true in any area of self-regulation, but because of the vast diversity within and scope of the nonprofit sector, it is particularly true, there, that one size may not easily fit all.

If one were to structure a model of self-regulation that could effectively impact the integrity, efficiency, and overall health of a sector or subsector, legally-

enforceable sanctions would be the single most compelling factor that one could offer. In many realms, however, legal enforceability is either unattainable or undesirable. In those areas, an effective self-regulatory scheme may still be achieved by a combination of some of the more significant other factors of self-regulation analyzed in this Report. These factors would include the authority to accredit organizations coupled with the authority to withdraw the accreditation, particularly when this certification or accreditation is required either (1) to enable the organization to engage in the activities for which it is formed (monopoly power) or (2) for funding by government and private grantmakers (ability to market to funders). The impact of a self-regulatory scheme manifesting these factors could be augmented if the scheme also reflects the following: (1) a strong history of enforcement, (2) a robust process for accreditation and required reaccreditation, preferably including site visits, and (3) sufficient staff and budget dedicated to the self-regulatory function to implement the scheme in an effective manner.

Finally, the analysis in this Report will benefit from the hoped-for critical engagement of others, whose ideas, insights, agreements, and disagreements are likely to advance understanding of what makes self-regulatory models effective or ineffective. We look forward to those thoughts and contributions.

Respectfully submitted,

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