



MASTER OF NONPROFIT ADMINISTRATION

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Nonprofit Ethics Case

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1. Families for Excellent Schools: Deception and Political Malpractice

2. Summary

This case study examines the ethical implications of operating a social welfare organization, known as a 501(c)(4), alongside a traditional 501(c)(3) nonprofit. Under the management of Jeremiah Kittredge, Families for Excellent Schools and its 501(c)(4) partner, Families for Excellent Schools-Advocacy, were fined a record \$425,000 for failing to disclose their donors in a \$15 million contribution in favor of in a Massachusetts ballot initiative. The ensuing public relations crisis threatened the career of Paul Sagan, Massachusetts Board of Education Chairman, and casted a shadow on the charter school movement.

3. Applications

The case is relevant for nonprofit organizations that want to participate in political activity while retaining their tax-exempt status. The case examines an organization that failed to adhere to relevant regional regulations, exposing the organization to criticism and negatively affecting its image and credibility. Chief executive officers and nonprofit boards

that wish to engage in political advocacy can use this case as to avoid malpractice and ethical pitfalls in their achieving strategic goals.

Reviewing the case study will reveal the intricacies of pursuing a political agenda, even when utilizing a 501(c)4 nonprofit arm that is permitted to engage in political advocacy. Although nonprofits are generally allowed to keep their donors anonymous, this is not true in all cases. Failure to abide by regulations violates the board's duty of obedience and can result in financial or criminal penalties. However, these penalties may pale in comparison to the damage to the organization reputation and ability to deliver on its mission. Additionally, the case study reveals how malpractice can stem from leadership failures at the highest levels of the organization.

4. **Outcomes**

Expected learning outcomes from studying this case include a deepened understanding of the importance of compliance with political campaign regulations, the legal reprimands of noncompliance, and the image and public relations risks associated with ethical leadership failure. More generally, this case analysis should encourage the identification of ethical responsibilities and challenges faced by nonprofit organizations and their leaders engaging in political activity.

5. **Video**

The following link is from the YouTube channel of Families for Excellent. It is one of many testimonials praising the organization and its mission:

<https://www.youtube.com/watch?v=qPsXMjmFWz4&feature=youtu.be>

6. **Description**

Background

Families for Excellent Schools (FES) was founded in 2011 to partner local families and schools in an effort to transform the education systems in their communities. It is currently registered as a 501(c)(3) nonprofit organization that advocates for education policy change by supporting public charter schools. According to the organization's website, its mission is "to ensure that every child attends an excellent school by building coalitions of families and their allies and running campaigns that change education policy."¹ As a member-driven organization, FES serves 50,000 families across 90 schools throughout New York, Massachusetts, and Connecticut. In its statement on values, the organization emphasizes

collaboration with allies, *results* for both short- and long-term successes, *grit* in persevering under all circumstances, and *respect* for others even when taking strong positions.

As a 501(c)(3) nonprofit organization, FES is strictly limited in its ability to advocate politically. However, in addition to the main branch of the charity, FES has a 501(c)(4) supplementary branch, Families for Excellent Schools-Advocacy (FESA) capable of a greater extent of political advocacy. Donations to either branch of Families for Excellent schools can remain anonymous according to their nonprofit status, and FESA is utilized to make political contributions to the advancement of FES's mission. Although this practice is not uncommon among nonprofit organizations dedicated to social change, it presents ethical challenges for the organization and its donors.²

Unethical Behavior and Leadership Failures

In November of 2016, voters in Massachusetts were presented with a ballot measure known as "Question 2."³ According to an article from *The Intercept*, Question 2 was the most expensive ballot measure in the state's history, with a total of \$40 million raised by both supporters and opponents (Cohen, 2017). The proposed ballot initiative aimed to lift the state's existing cap on charter schools. In the months leading up to the November 8, 2016 voting day, FESA contributed \$15 million to Great Schools Massachusetts, a ballot question committee in support of Question 2. According to the state's Office of Campaign and Political Finance (OCPF), FESA failed to disclose the names of its donors as required by OCPF regulation.⁴

According to a lawsuit filed by OCPF, FESA used its 501(c)(4) status to accept anonymous donations and transfer those funds to the ballot question committee in violation of the law. A press release from OCPF states that "the money received by FESA significantly increased during the four months before the Nov. 8 election, and then dropped significantly afterward ... suggesting that FESA solicited or received contributions with the intent to give the money to the ballot question committee" (Qtd. in Cohen, 2017). After the investigation, a settlement between Families for Excellent Schools-Advocacy and the OCPF was reached in September 2017, which included a \$425,000 repayment to the state and full disclosure of all donors who contributed to the ballot measure (LeBlanc, 2017). This failure created a public relations crisis for FESA and its 501(c)3 partner, FES, as the press reported the settlement to be largest campaign finance penalty in the state's history.⁵

Following the settlement, FESA released the names of all donors who supported the initiative, and among them was Massachusetts Board of Education Chairman, Paul Sagan. The disclosure revealed Sagan contributed nearly \$500,000 to FESA while it was advocating in favor of Question 2. Following inquiries on this revelation, Sagan defended that it was not his responsibility, but that of FESA to disclose the donation. However, ethical questions remained.

As Board of Education Chair, Sagan had a significant influence on the disciplining of charter schools and the process for opening new charters. The chairman further explained that he had contacted the State Ethics Commission prior to making his donation and that he was notified that the Massachusetts conflict of interest policy did not bar him from donating personal funds to political initiatives. However, members of the public still decried what appeared to be a conflict of interest⁶, calling for his ouster.

Spending by FES and FESA has continued to be a point of contention, as a target for those opposed to increasing the prevalence of charter schools. During the Question 2 campaign, FES and FESA received most of its donations from the Boston business community and out-of-state donors.⁷ Other larger donors include the Walton Family Foundation, the philanthropic endeavor started by Walmart founder Sam Walton and his wife. Jeremiah Kittredge, FES's chief executive officer, refused to comment on the organization's funding saying, "This is an effort that we're really proud of as being truly both bipartisan and one that spans a number of groups and individuals and that's all I'll say for now."⁸

Under Kittredge's navigation, FES and FESA have organized impressive rallies and spent an even more impressive amount of money. "Money can't buy 11,000 folks in Albany. It just can't. That is long-term, hardcore real grassroots organizing and it takes months and months of work that comes from organizers in neighborhoods doing one on ones, walking floors, walking buildings, meeting families," Kittredge said. Despite Kittredge's insistence that FES represents a grassroots movement, the \$15 million that was spent in support of Question 2 only came from 40 individuals.⁹

Conclusion

The full impact on Families for Excellent Schools, its mission, and supporters, has yet to be determined. However, the case serves as a cautionary tale for nonprofits that seek to affect social change. Although chairman Paul Sagan was within his legal rights to make his contributions to the campaign, the nonprofit could have protected its reputation by refusing them. The response to the ethical challenge is illustrative of CEO Jeremiah Kittredge's management of the organization. The organization's attempts to obscure financiers lends weight to the accusation that it is working in favor of special interests.

As an institution that claims education policy change as its purpose, the actions of FES and FESA could negatively affect other organizations in the sector. Education is a critical, sacred part of any community, and when leading organizations showcase unethical behavior and deceptive practices, they lose their credibility and the trust of their constituents. The direction taken by Kittredge as chief executive officer has cast a shadow over the mission of the organization and the parents of children advocating for policy change.

Other nonprofits considering the establishment of a 501(c)(4) arm should take into consideration how the public may interpret the ethical conduct of their organization. Since

the Supreme Court decision in favor of Citizens United, political spending through “dark money” has become a hot topic in America, and the strategy of bankrolling donations through a 501(c)(4) is precarious. Malpractice can lead to embarrassing revelations, as with chairman Sagan, and potentially tarnish the message of the organization as a whole.

7. Questions

From a personal/leadership perspective:

- Which key players from Families for Excellent Schools should have intervened, and at what point in the development?
- What conflicts of interest, if any, can be observed in this case in regard to stakeholders and donors?

From an organizational (nonprofit) perspective:

- In the examples presented in the case, did FES/FESA hold true to the organization’s stated values (collaboration, results, grit, and respect)? Could these values have contributed to unintended negative outcomes?
- Does funding elaborate rallies to promote charter schools positively or negatively impact the image/brand of the organization?

From a systemic (sectors) perspective:

- What potential problems do the actions of Families for Excellent Schools pose for organizations with similar education-based missions in the sector?

From an ethical perspective (theory):

- From a Utilitarian perspective, does the mission of FES/FESA promote the greatest good for the most people? Why or why not?

8. Resources

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9. Endnotes

1. Information available on the organization's website, <http://www.familiesforexcellentschools.org/about>
2. See Internal Revenue Code, Title 26, Section 501(c)(4) for requirements for the organization's tax-exempt status.
3. A full description of Question 2, in addition to other measures on the 2016 Massachusetts state ballot, is available on the Information for Voters: Massachusetts 2016 Ballot Questions.
4. See Campaign Finance Guide for State Ballot Question Committees (2016) for specific regulations.
5. <https://www.bostonglobe.com/metro/2017/09/11/pro-charter-school-group-pays-state-largest-campaign-finance-penalty/uQlWnaSnOC6CeHma74cPqN/story.html>
6. <https://www.bostonglobe.com/metro/2017/09/20/school-official-hit-over-donations-charter-school-advocacy-group/a2c4LO5PmM57vCxmmipuhI/story.html>
7. <https://www.bostonglobe.com/business/2016/09/13/big-money-from-boston-business-leaders-favor-charter-schools/iE5LrqvZwlE4ZRI0LN1nUN/story.html>
8. Listen to WNYC's story at <http://www.wnyc.org/story/behind-pro-charter-school-group-fighting-de-blasio/>
9. WBUR explains at <http://www.wbur.org/radioboston/2017/09/15/dark-money>