

Standards Program Interpretation Guide

Legal Compliance: A9

Standard:

The board or a board committee oversees the organization's compliance with its own governing documents (e.g., letters patent, by-laws) and all applicable federal, provincial and municipal laws and regulations. Organizations conducting programs outside Canada will also abide by applicable laws, regulations and conventions in that jurisdiction, unless these are in conflict with laws in Canada.

Issue that causes challenges for some organizations:

Organizations need guidance on the level of oversight required to comply with this standard.

Compliance with the organization's own governing documents

All registered charities and incorporated nonprofit organizations have at least one governing document. Depending on where and how the organization was established, its governing document(s) might include: letters patent, by-laws, a certificate of incorporation or continuance, a constitution, and/or a deed trust. These documents set out matters related to how the organization is organized, particularly with respect to governance, and how it operates. Letters patent, for example, set out the purpose of the organization. By-laws set out details related to membership in the organization, annual meetings, the composition and appointment of the board of directors, officers, the holding of meetings, and other matters related to the governance of the organization.

Organizations should put in place a process to review, on a regular basis, the details in the governing documents to ensure there are no instances of non-compliance with the requirements in the documents. This process should generally be carried out annually. The detailed review is normally delegated to a board committee. If updates to the documents are needed, an action plan should be developed to address the outstanding issues.

Organizations applying for accreditation can demonstrate compliance with this standard by documenting who is responsible for the compliance review, how often the review is done and when the last review was completed.

Compliance with all applicable federal, provincial and municipal laws and regulations; and if appropriate, compliance with laws in jurisdictions outside Canada

Charities and nonprofits are subject to a wide range of laws and regulations. It is management's responsibility to compile a list of significant laws and regulations that impact the operations of the organization and put in place processes to ensure compliance. It is not necessary for board members to carry out a detailed review to satisfy themselves that all laws and regulations are being complied with. Instead, practice has developed for boards to receive a statement from the most senior staff person reporting on the organization's compliance with significant laws and regulations in the jurisdictions in which it operates. The statement will generally indicate that the representations in the statement are "to the best of their knowledge" since it is impossible to give positive assurance with no qualification given the very extensive number of laws and regulations that could apply to an organization.

The board should understand the process that is in place to identify significant laws and regulations as well as what steps are taken to provide the most senior staff person with the information they need to be comfortable signing the compliance statement provided to the board.

If an organization is complex or decentralized, it may be necessary for the organization to have a practice where managers responsible for specific areas provide assurance to the most senior staff person that laws and regulations have been complied with in the areas for which they are responsible. The most senior staff person relies on these statements in signing the report provided to the board.

Samples of compliance reports and statements of attestation can be found in the Standards Community on Sector Source.

Interpretation Guide

This paper is one in a series that aims to provide clarity and guidance to organizations seeking to strengthen their governance practices and/or work toward achieving accreditation through Imagine Canada's Standards Program.

Imagine Canada's Standards Program was developed to elevate the excellence of Canada's charitable and non-profit organizations through common standards of practice in five foundational areas; and to strengthen public confidence in the sector through a voluntary peer-review-based accreditation process. Organizations wishing to be accredited must demonstrate they comply with all standards. Visit www.imaginecanada.ca or contact standards@imaginecanada.ca for more information.

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