

# A Place at the Table: Non-Family Membership on the Family Foundation Board

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PASSAGES

EXPLORING KEY ISSUES IN FAMILY GIVING

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*What gives special meaning to a family foundation's giving? It is within the family that we first find our strength, support, and sense of self—our enduring values. It is here that we learn to work together and help one another in times of need. It is within our family that we have value, find a place, and discover direction and meaning.*

Family giving comes from a common cause, a shared vision, a particular need for giving back a portion of life's gifts. Family members can focus on shared personal interests and can shape the architecture of their giving by expressing and validating shared family experience. Foundation board service can be the means by which family members find a new and worthwhile purpose, thereby making their

individual contributions special in the community and the world.

When a family foundation board works as a team—with harmony of vision, purpose, and shared expertise—it may see no real need to bring in outside members. The family itself is the board's first and greatest resource. But circumstances may arise where family members are not fully able to meet the board's need for expertise or goals for future governance. More may be required.

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## **A PLACE AT THE TABLE FOR NON-FAMILY TRUSTEES?**

What are the signs that your foundation's board might benefit from adding a community leader to bring new energy and a fresh voice to board deliberations and decisions?



“The National Center gets many calls from families about issues related to board composition,” says Virginia Esposito, president of the National Center for Family Philanthropy. “Should we add trustees who are not family members? What are the reasons to do so, or not to do so? What are the main challenges we can expect? And what is the best process for bringing new non-family trustees on to the existing board?” These questions offer an excellent starting point for discussion.

Some family foundations have never had an outside trustee on the board and don’t want one. Others have had non-family trustees since their inception—either a friend or business associate of the founder, a trusted lawyer or accountant, or a program expert or local community leader respected by the family.

In fact, it’s not unusual for family foundations to have board members who are not related to the family. According to the Council on Foundations’ 2010 study, “Board Composition and Compensation,” as many as one-third of family foundation trustees among Council members responding to the survey were not related to the donor family.

It’s also useful to keep in mind that, while families are forever, foundation trustees will come and go. In light of this, many families adopt a bylaw requiring that the board maintain a majority of family—even blood-line descendants of the founder—to ensure long-term family involvement in the foundation. The Conrad N. Hilton Foundation, long an advocate of outside trustees, did exactly this a few years ago; it now requires that a majority of the board consists of direct descendants of Conrad Hilton. (See Box on page 13–14 for details and options for how to ensure family involvement on the board for the long-term.)

#### **A Note on Terms**

Please note that the term “trustee” is used in this paper to refer generically to any full member of the legal governing body of a family foundation, whether a corporation or trust. So “trustee” also embraces “director” in our meaning.

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#### **KEEP YOUR EYES ON THE PRIZE**

Esposito suggests that it’s important for any family foundation thinking about bringing on non-family trustees to approach the matter of board composition with their eyes on the prize, rather than on related—but tangential—issues. “For some people, it’s about how the foundation got started,” she observes. “For others, it might involve a transition to the next generation, or wanting to diversify the board, or appointing the CEO to the board.” Esposito notes that these issues, while related, do not get at the basic questions regarding board composition. “Somebody should say, ‘This isn’t about whether we should have a diverse board, or whether the CEO should be on the board, or whether we need community people because the family has spread across the country and doesn’t live here anymore.’”

Rather, Esposito says, the questions family board members need to think about are: *What are we trying to do as a foundation? What kinds of resources and expertise do we need to be successful? And what type of board will give us the best shot at success?*

#### **DEFINING SUCCESS**

In answering these questions, the family’s focus should be on good governance. A research team led by Kelin Gersick found that family foundations are likely to invest significantly more time and resources in grantmaking, rather than governance. His book *Generations of Giving*, a product of the National Center’s research initiative on

generational succession and board continuity, demonstrated that for most family foundations success in grantmaking follows success in governance.<sup>1</sup>

Starting from the premise of “what does the family board need to be successful,” questions for all-family boards considering future board composition are:

- *What do we need to access the best possible volunteer leadership, advice, program support, legal support, and investment expertise?*
- *Do we need legal or financial management advice, program expertise? Do we need people who understand donor intent, family values, and the foundation mission?*
- *Do we need these new skills and perspectives to come from the board members themselves or should we consider other sources, such as advisory committees or a professional retainer?*

“My concern about turning too quickly to trustees drawn from outside the family,” Esposito concludes, “is that people sometimes start this discussion by focusing on whether the board should be ‘all family’ or ‘not all family,’ as if that’s the end of the conversation. It’s not. It’s one of the values that help you make your choices.” In some cases, after considering these questions, family foundation boards may conclude that the current (all family) membership meets all necessary criteria for good governance: “Some family boards decide that only family will have the same shared heritage, only family will have the same experience, and only family can be expected to participate as board members on a volunteer basis.”

“For other families, however, related discussions may develop,” Esposito continues. “If we’re not getting what we need from the board, how can we get it through other means? For example: We may not want program experts on our board, but should we have additional program expertise on retainer or on the staff? Should we consider a community or issue advisory committee?”

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“These collateral discussions are about how to get the things the family trustees need to achieve their shared goals. Once those questions are on the table, the family trustees can have a conversation about who’s in the pool of people they might consider for these purposes. Obviously, interested and qualified family members are in the pool. Experts in their community or program areas might be considered for the pool. Or you may wish to include a staff member or advisor or a best friend from the family business.”

“And once you’ve decided on who is in the larger pool of candidates, how do you go about making the selection? What kind of criteria and what process will you use?”

For example, consider the case where current board members begin talking about whether the foundation needs a program expert. This discussion may revolve around how a particular candidate will fit in with the family members on the board, but may not consider an equally valid question: Does a program expert have to sit on the board at all? What are the benefits—and losses—in defining a governance role for a program expert?

<sup>1</sup> Kelin E. Gersick, et al. *Generations of Giving: Leadership and Continuity in Family Foundations*. (Washington: Lexington Books, 2006).

### **The Durfee Foundation Expands Its Board to Include Non-Family Members**

*By Caroline Durfee Avery, President, The Durfee Foundation*

The all-family board of the 50-year-old Durfee Foundation debated throughout the first half of 2010 about the strength of our board. One member had retired, another did not seek reappointment, and a third was asking for a leave of absence for a year. At the same time, some board members expressed an interest in incorporating new perspectives into the foundation.

The board found that our well-honed mission aligns well with its operations, that family will continue to play a dominant role in governance, and that the foundation had a strong identity that non-family trustees could build on and make even stronger. We interviewed other family foundation leaders around the country, and board deliberations continued for some months.

At our June 2010 retreat, the board shaped a strategy: to invite two people to serve as “Board Fellows” who would attend meetings and have access to the same materials and decision process as family trustees, but would not vote on board actions. Some family members—myself included—hope that, as family trustees become more comfortable with the Fellows, the board will decide to add them as voting trustees.

### **PLANNING FOR TRANSITION: BOARD COMPOSITION**

Another important consideration for many families is the state of the family foundation board as it prepares for a transition. The transition may involve an aging chair or other leaders who are preparing to retire. It may involve board turnover as several family members reach their term limits, and members of the next generation prepare to join the board. Family members say that what they really want to pass on is a highly functioning foundation with a highly functioning board—which in turn

### **The Nesholm Family Foundation Experience**

*By Laurel Nesholm, Executive Director, Nesholm Family Foundation*

The Nesholm Family Foundation currently has three non-family members as trustees. Two were appointed 23 years ago, at the foundation’s inception, in order to meet a bylaw requirement, since at that time there were no eligible family members. The third joined five years ago to serve as a mentor and example for the next generation of family members. All were personal friends as well as respected for their professional involvement in the community, with each bringing a different dimension and depth of knowledge to the table. The foundation’s view is that these bright, principled individuals contribute a great deal to its work and that their viewpoints are extremely valuable.

may lead to an examination of board composition going forward. If your family is preparing for transition, it’s important to frame this as not about the skills of the oncoming new members or next generation family members, but rather as a statement of sound practice: Are we passing on the best governing body we can? One way to ensure that this does not become confrontational is for the current board to outline its recommendations for new membership, but leave it to the new board to devise and carry out its own plans. *For more on board composition and transitions in family philanthropy, see the additional resources listed at the end of this paper.*

### **OUTSIDE TRUSTEES CAN BRING NEW ENERGY AND EXPERTISE**

One of the most knowledgeable, experienced, and trusted advisors in the field of family philanthropy is Alice Buhl. Buhl is a Senior Consultant for Lansberg, Gersick & Associates and a Senior Fellow at the National Center for Family Philanthropy. Based on her more than three decades of work with

## ADVICE FROM YOUR COLLEAGUES

*Family foundations who have made the decision to add one or more non-family individuals to their board offer a variety of advice for others thinking about this decision. Suggestions include involving everyone in the discussion about whether and how to involve non-family board members, coming to a clear understanding of your intentions, providing family and non-family members with the same rights, responsibilities and orientation, and adding more than one non-family board member. Specific advice from family foundation leaders includes:*

“It is important to find people who appreciate and support your concept of a family foundation. Our experience with the first two non-family board members far exceeded all expectations. We avoided a two-tier structure and they had all of the responsibilities and privileges of family members. In short, they have made us better in many ways, and we are all grateful for their participation on the Surdna board.”

—Elizabeth Andrus, Trustee,  
*The Surdna Foundation*

“There needs to be a clear understanding of the foundation’s intentions. Is the goal only to add another voice? Is there hope that outsiders will quell family dissension? Is there a programmatic knowledge goal —and if so will the new member intimidate the others (which might lead to the idea of hiring a consultant instead of getting a board member)? The ED should talk individually with each board member to understand any concerns that he/she needs to be alert to as the foundation moves forward. Many of these concerns are more apt to be emotional than rational.”

—Skip Moore, President,  
*The Weaver Foundation*

“One new board member is not enough. Be clear about why you are adding non-family members and add as many as you need to accomplish that purpose. The family must be willing to have non-family board members functioning as equals to family board

members. If purpose is not clear, compelling and connected to the foundation’s mission and impact, think again. Be prepared for board dynamics and culture to change with the addition of new perspectives and personalities; be prepared to articulate and to live the board’s core values and non-negotiables on board culture.”

—Gayle Williams, Executive Director,  
*Mary Reynolds Babcock Foundation*

“I highly recommend adding non-family members to your board for the additional breadth of perspective they bring, and for their good ideas about how to improve grantmaking and foundation performance.”

—Mary Mountcastle, Board Member,  
*Mary Reynolds Babcock Foundation*

“Talk with other foundation directors who have made this move on their boards. Have a full conversation with your board, and hear everyone out. Try to come to consensus, but if not doable, vote and move forward. I also would advise adding not just one outside director, but two (depending on the size of your board), with staggered terms.”

—Edie Thorpe, Trustee, *The Surdna Foundation*

“Make sure that all family board members and family branches feel they have been given the opportunity to participate in the nomination/selection process.”

—Stephen Foster, President/CEO,  
*The Overbrook Foundation*

“While family and non-family trustees receive the same orientation materials, non-family members are also given a family tree, so they know how everyone is connected.

—Anonymous

“Do it.”

—Steve Toben, Executive Director,  
*Flora Family Foundation*

*Family board members may have moved away or left the board for various reasons, and new family candidates are not available.*

family foundation boards and philanthropic families, Buhl has developed seven categories describing the intentions of families reaching outside the family for board talent, and the kind of person they recruit to fulfill that goal. In many cases, an individual may fulfill more than one of these categories. Buhl's list of the most common kinds of outside trustees for family foundation boards includes:

- *The Trusted Friend:* The donor or board wants to bring in a trusted friend who knows the family, respects the purposes of the foundation, and can act as an honest broker or gadfly to enrich board deliberations.
- *The Professional Advisor:* This may be a lawyer, accountant, or financial advisor who is long known to the donor or the family and brings deep institutional knowledge to the board. This category of non-family board member is often helpful in ensuring allegiance to donor intent, focusing on mission, and helping keep the grantmaking on track.
- *The Expert:* A well-known expert in a field of interest to the board. This person brings knowledge, contacts, and the ability to evaluate proposals and new initiatives.
- *The Community Representative:* This type of non-family board member can be particularly helpful when the board wants closer ties to the community (for instance, in situations where family board members have moved away from the founder's home community). The recruit might be a major player in the community and would be expected to bring political insight, contacts, and knowledge of potential grantees.

### **Community Representatives Enhance Board Perspectives**

Gayle Williams, executive director of the Mary Reynolds Babcock Foundation in North Carolina, says that the foundation brought on its first non-family board members more than 20 years ago, to add both program expertise as well as socio-economic and world view diversity. "Over the years, the board has sought many non-family board members with expertise and lived experience in the fields and geographies within which the foundation works." (For more on the Babcock Foundation's trustee selection process, see the box on page 8.)

### **Non-Family Members Help Position Board for the Long Haul**

The Weaver Foundation, based in Greensboro, North Carolina, plans to exist with family involvement in perpetuity, and has recently added two non-family board members to help bridge the gap between the 2nd generation family trustees and their young children. "There is a large age gap between the 2nd generation (in their 40's) and their children, who range from 8 to 18. If we are to be perpetual we have to plan for a governance system that will carry us into the future," explains Skip Moore, president of the foundation. "Personality and style were very important in the selection effort, as was balancing new members by age—some older and some more contemporaries of the 2nd generation. After our first meeting with the new non-family board member present, everyone was immediately comfortable. We have since added another and we will continue to add more non-family members over the next year or two. We are revising our bylaws and our governance approach in a way that ultimately will result in a majority of the board being non-family."

- *The Pinch Hitter:* Family board members may have moved away or left the board for various reasons, and new family candidates are not available. Reaching outside the family for a trustee is a matter of necessity.
- *The Representative of a Different Culture:* The board may want to diversify its membership to include representatives of cultures, ethnicities, or races different from those of the family board members. (For an example of one family foundation’s approach to this issue, see the sidebar on the Jessie Smith Noyes Foundation to the right).
- *The Chair:* Although uncommon, a board chair from outside the family can be used to help bring impartiality to board deliberations or simply to take his or her turn in the potentially time-consuming and difficult job of board chair. In some cases, a non-family member may be appointed as chair to help resolve family branch difficulties, or to serve at a time when other family members are not available. Regardless, appointing a non-family member as chair should not be tried until significant trust and understanding are built up—the gavel is seldom handed to a newcomer as an initial strategy.

### Trusted Friend and Expert Contributes to Continuity

Stephen Foster, president and CEO of the Overbrook Foundation in New York, says that when that foundation’s board decided to add its first outside trustee, they “were thinking about issues around continuity, family involvement, professional management, and the future of the foundation. Vincent McGee was well-known to senior members of the family and they looked to him because of his long experience in managing family foundations and working with family boards.”

### WHY DIVERSITY?

More than 50 years after Charles F. Noyes established the Jessie Smith Noyes Foundation in memory of his wife, ten of our 16 trustees are from outside the family. Today, our board and staff are male and female, black, white, Latina, Native American and Asian, married and single, and straight and gay. We live in the New York City region and across the country in rural, urban, and suburban communities.

Achieving and maintaining such diversity has not been easy. But it has been essential to pursuing our mission as a foundation.

- Diversity strengthens our grantmaking by helping us understand and respond to the full spectrum of groups seeking grants.
- Diversity makes us more accountable to grantees and the communities they serve.
- Diversity helps us broaden our perspective on the economic, political, and social problems we are working to resolve.

*Reprinted with permission from The Challenge of Diversity, published by The Jessie Smith Noyes Foundation.*

### MOLDING THE MODELS TO FIT

When considering the models listed above, Buhl advises families to take a creative and customized approach to moving forward. Extensive debate, discussion, and research in the field can help your family to learn about options for good governance and about your particular governance needs. Here are some approaches that Buhl says other families have used:

- *Founding Board:* When the founder is young and has young children, he or she might want to launch the foundation with a board

consisting largely of outside trustees. Typically, these trustees would include the founder's legal counsel, accountant, and financial manager or advisor. They might also include long-time business partners. They could serve until the founder's children come of age.

- *Interim or Short-term Appointment:* The outside trustee can be appointed for a term of years to fill a gap when, for example, a sitting trustee retires and no new family member will be ready to serve in the immediate future. Another example might be if the board is launching a new program area in the outside trustee's field. The key in interim or short-term appointments is that often outside

trustees bring fresh ideas and energy because they serve limited terms, often just a few years. Family members may have perpetually renewable terms, and may benefit from such periodic changes in board composition.

### **CREATIVE CONSIDERATIONS FOR NON-FAMILY BOARD MEMBERS**

Families have a wide range of options when deciding how best to beef up the governing capacity of the board. For instance, any function performed by an outside trustee can also be performed by an outside advisor. Trusted friend, professional advisor, expert, and so on—any of these functions can be added by asking the outsider to join an advisory

#### **The Mary Reynolds Babcock Foundation defines characteristics for future non-family board members**

“We first added non-family trustees decades ago,” says Mary Mountcastle, board member at the Mary Reynolds Babcock Foundation in Winston-Salem, North Carolina. “It’s just part of our culture now.” At its June 2008 board meeting, the Babcock board agreed to the following set of characteristics to help guide its recruitment and selection of new non-family board members:

1. People who have the time and are willing to give it to the work of the board. A work style consistent with MRBF.
2. Share MRBF core beliefs and values; on same page with our theory of change.
3. Big ideas. Spacious vision and capacity for synthetic thinking. Box-breaking perspective; grounded in innovative strategies and the ability not to be bound by his/her experience.
4. On-the-ground experience with economic development. Understanding of markets and their power to move people forward. A broad point of view that spans work on the ground and from “higher up.” Demonstrated commitment to helping communities solve tough economic and social conditions. A policy advocacy perspective.
5. Younger than 40.
6. Ability to see American South as whole, to understand regional needs, dynamics and possibilities, e.g., Delta, Black Belt, Appalachia, and to link to MRBF mission and strategies.
7. Someone who builds and understands social networks or communication systems. State- and regional-level networking, intermediaries of different kinds.
8. Latino, work with the Latino community, experience in the work of bridging differences.
9. Iconoclastic approach which helps us rethink our goals and test our assumptions. Broad thinker. Intellectual curiosity, and desire for continual learning.
10. Diversity of race, gender, age and class, including class diversity within race and ethnicity.

group, meet with the board regularly as an adjunct member, or simply to be on call as needed. Indeed, some outsiders might be more comfortable in this satellite role, orbiting around the board but never being expected to land.

Such an appointment can answer a need or solve a problem for the board, without committing the individual to long-term service. Further, it allows the board a chance to get to know the person if future board membership is contemplated. The appointment can give the foundation a fresh perspective on a particular committee, while giving the advisor a prestigious, rewarding position. Naturally, the more the board sees the outsider as important to better governance, the more likely the board is to want that person inside as a voting member of the board. As a full trustee, the outsider shares all of the burdens of responsibility that accompany legal and fiduciary duties of trusteeship.

### WHAT WORKS... AND WHAT DOESN'T: VOICES OF EXPERIENCE

One of the best sources of advice on difficult questions in family philanthropy are advisors and consultants who have worked with a wide variety of families to help plan long-term governance strategies. The process of identifying and recruiting a non-family trustee, especially to broaden and deepen governance capacity, lends itself to the involvement of such professionals.

We asked two experienced advisors to comment for this *Passages*, each with diverse backgrounds in working with philanthropic families. Judith Healey has consulted with family, private, and community foundation boards on national and international programs for more than two decades, and has been involved in National Center for Family Philanthropy projects since the Center was founded. Amy Zell Ellsworth recently retired as Senior Philanthropic Advisor at The Philanthropic Initiative in Boston, where she consulted with family foundation boards. She is also an author and lecturer on family philanthropy and is president of her family's small foundation.

Healey and Ellsworth suggest several advantages for adding non-family members to your foundation's board. Roles that non-family board members may play include:

- *Set and Encourage High Governance Standards:* "Outside board members can help to generate high standards," says Ellsworth, "especially where the outsider is highly respected in a particular issue area or in philanthropy generally. In one foundation I know, a family member, who was an entrepreneur, had sought a high level of performance for board governance. He went out and found the best people and brought them to the board."
- *Break Insularity:* "Non-family board members can break the insularity that family foundation boards may experience," says Healey. "Many times, family members and their spouses have homogeneous backgrounds. An outside board member may better understand the situation of those less fortunate, and that experience may enrich the discussion on philanthropic grants."
- *Balance a Large Family Board:* "An outside trustee may work out better with a larger board," notes Ellsworth. "One foundation I know started with nine family trustees and sought to add three outside board members. Every outside trustee had to have a very specific background, so that family members could turn to them for expert opinion or best practice. One was an expert in philanthropy. The foundation board has a strong religious tradition, so a second trustee was brought in who was a very knowledgeable person from the religious community. The board sought a third new trustee with deep business experience, preferably in a family business—a background similar to that of the founder."
- *Bring Nonprofit Experience:* "A family board found an outside trustee who had a combination of governance skills," Ellsworth recalls. "She came from a family foundation herself,

and also had issue expertise gained from her nonprofit background. No family member had that experience. This can help boards to bridge the distance between their discussions and nonprofit grantees.”

### Bringing New Dynamics to the Boardroom

When only family members sit around the conference table, or the dining table, their own special dynamic prevails. They speak their own private family language, and they structure conversations based on relationships and shared experiences. In most cases, introducing an outsider may immediately change that dynamic and those long-held and unrehearsed conversational practices. Family members may become more formal, perhaps more polite, and even more reluctant to speak candidly—at least until they become comfortable with the new trustee. “If there are branch or generational differences, for example, a non-family member may bring perceived objectivity which can help mediate family differences,” suggests Healey.

### Debating Important Questions

“Maybe the best measure of our foundation’s health isn’t how often we agree, but whether we are struggling with the most important questions of the time. These days, most of our debates are over strategies for preserving and improving the environment, about what a just society might look like, and about whether and how the market economy can be reconciled with the natural world and with democracy. We can’t imagine having those debates within a narrow slice of society, because the answers will affect us all.”

—Edith Muma and Chad Raphael, former board members, Jessie Smith Noyes Foundation, from *“It takes a Village to Raise... Our Family Foundation.”*

### WHAT MIGHT NOT WORK

Healey suggests that there are a number of commonly cited—and important—cautions about adding non-family trustees to the family foundation board. These include:

- *Loss of Privacy:* An outside trustee may compromise family confidentiality.
- *Loss of Power:* The family will dilute some of its voting power. One possible solution: Restrict voting to family trustees only.
- *Threat to Family Unity:* An outside presence could fracture family unity. Solution: A robust discussion is needed: Is family unity an end in itself? Is family unity so fragile that one new trustee will shatter it? How does all this relate to foundation governance?
- *Outsider Takes a Family Member’s Seat:* An outside trustee may be resented by some eligible family members as taking “their” seat on the board. Consider whether a younger family member may, indeed, add the value that the proposed outsider would have added.
- *One Dynamic Too Many:* Some family trustees may fear that an additional dynamic might be one too many.

Ellsworth offers additional observations on possible challenges and complications:

- *The New Trustee Does Not Engage Younger Family Members:* “Families can get into trouble when the founder brings in someone who is not good at engaging the rest of the family, especially the next generation. It is not easy for any family board to move into the next generation. The younger people may not have credibility with older family members. Older family members may have problems communicating with the next generation. And it can be especially difficult if the founder nominates someone who is older than most or all other family members.

The family wants to honor the founder and follow his or her lead. But the mix with family members may not be good. The same is true when family trustees view the outsider as a tool of the founder or perhaps of a small group of family trustees. Perception is a key factor.”

- *The New Trustee Pushes Too Hard for Change:* “Sometimes, family members push back against an outside trustee. One family was uncomfortable with how a new outside trustee insisted on raising the level of board standards in several ways. Family members resisted—not the higher standards but the way change was being presented. Eventually, the resisting board members embraced the changes and were actually grateful. The outsider was asked to chair a committee, and then another outsider was asked to chair the governance committee. In the end, the outside trustees brought impartial, unbiased attitudes to the boardroom; they had no private agenda. They had a calming influence.”
- *The New Trustee Advocates Too Vigorously:* “One foundation found that its new outside trustee was overly connected to elements in the community. The outsider became—or was perceived to become—a special advocate for certain elements in the community. “

Ellsworth suggests that the best solution for each of these challenges is to set appropriate expectations for both new and existing board members: “The best solution for avoiding new problems is prevention. Set rules, adopt them in writing, make them clear to the prospective outside trustee, and have everybody live by the rules.” The rules might include, for example, term limits, which are considered good practice (for boards that want to adopt them) for family as well as outside trustees. Outside trustees who complete their terms can always be brought back at a future date. “Bringing outside trustees onto a board without a structure or with a loose arrangement can lead to difficulties

and misunderstandings. The rules should be understood up front and should also apply to family board members, although some might be directed particularly to outsiders.”

### **THINKING ABOUT LEGAL AND ADMINISTRATIVE ISSUES**

Before inviting an outside person to join the family foundation board, the board should consult legal counsel and review administrative implications. It is also important, of course, for the family to discuss these matters with the prospective new trustee. Among the issues that the family should act on are:

- Ensure that the new member is a full and legal trustee of the foundation by a formal vote of the board, recorded in the minutes;
- Explain legal and fiduciary responsibilities and duties of a board member;
- Obtain or expand coverage by an officers and directors liability insurance policy to limit exposure to liabilities as a board member;
- Provide conflict-of-interest policy and board bylaws;
- Sign a confidentiality agreement;
- Determine whether outside board members will have the opportunity to advise on discretionary grants;
- Set the term of service; and
- Decide on any stipend, reimbursement of expenses, and benefits (health insurance, retirement, etc.).

For more information on legal and administrative issues, see the National Center publications *Splendid Legacy: The Guide to Creating Your Family Foundation*; *The Trustee Notebook: An Orientation Guide for Family Foundation Board Members*; and *Board Compensation: Reasonable and Necessary?*

## CONCLUSION

This issue paper has outlined many of the questions, opportunities, and potential challenges that any family foundation board may face when first deciding to add non-family trustees. Key suggestions include:

- Think carefully about whether outside trustees are what the current board wants—and needs. Consider alternatives (advisory boards, new program staff, committees) that may achieve the same, or better, results.
- Carefully define the role(s) you expect new outside trustees to play.
- Set expectations about voting, board terms, participation, and responsibilities – for the new trustee, for existing board members, and for next generation family members who may expect to join the board in the future.
- Review existing board policies (conflict of interest, discretionary grants, board compensation, board terms, etc.) to ensure that no issues are likely to arise with the appointment of non-family board members.

Family foundations—like the families who establish them—are dynamic, constantly evolving entities. In the boardroom, trustees express their own perceptions, loyalties, coalitions, hopes, and anxieties. In many cases, outside trustees may be brought in as powerful resources to support existing family board member in their collective pursuit of the family’s philanthropic goals.

*Editor’s Note: The information in this article should not be taken as qualified legal advice. Please consult your legal advisor for questions about specific legal issues discussed here. The information presented is subject to change, and is not a substitute for expert legal, tax, or other professional advice. This information may not be relied upon for the purposes of avoiding penalties that may be imposed under the Internal Revenue Service.*

### Additional Resources:

“Differences in Perceptions Between Family and Non-Family Board Members,” from *Beyond Compliance*. (Boston, MA: Center for Effective Philanthropy, 2005)

Gersick, Kelin E., *et al.* *Generations of Giving: Leadership and Continuity in Family Foundations*. (Washington: Lexington Books, 2006) Seminal research by a leading author, scholar, and consultant and his team that focuses on the impact of family relationships on governance and grantmaking in family foundations.

Healey, Judith, *Voyage of Discovery*. (Washington: NCFP Publications, 2001). On strategic planning for family foundations.

National Center for Family Philanthropy, *Families in Flux: Guidelines for Participation in Your Family’s Philanthropy*. (Washington: NCFP, 2004)

National Center for Family Philanthropy, *The Power to Produce Wonders: The Value of Family in Philanthropy*. (Washington: NCFP, 2010) A research report on the value of family involvement in philanthropy to the family and to democracy.

“Not in the Family,” by Deborah A. Brody, *Foundation News & Commentary*, May/June 1995. Family foundations tell how they work best with trustees who aren’t family members

“It takes a Village to Raise...Our Family Foundation,” by Edith Muma and Chad Raphael, *Foundation News & Commentary*, Jan/Feb 2000. The family behind the Jessie Smith Noyes Foundation decided they’d make better grants if they embraced the input of non-family members.

## RETAINING CONTROL

One of the most common concerns among family foundations thinking about adding their first non-family trustee is the issue of control: How do we add new board members without risking loss of control and input into the long-term future of the organization?

There are a variety of strategies that family foundations around the country have used to retain control while engaging non-family board members in their work. These strategies may be used alone or in combination, and may include the following:

### **Strategy 1: Create term limits for current board members.**

Term limits help clarify expectations of both family and non-family board members, and encourage current and future board members to see their role as stewards rather than as “owners” of the foundation. Term limits have the added benefit of allowing younger and extended family members, as well as other outside voices, to participate on the board over time. For sample policies on board term limits for family foundations, please contact the National Center at [ncfp@ncfp.org](mailto:ncfp@ncfp.org).

### **Strategy 2: Adopt a resolution requiring that family members shall always constitute a majority of the board of directors.**

In May 2005, the board of the Conrad N. Hilton Foundation met to review the future of the foundation’s governance structure. For more than a half-century, Hilton family members had constituted a minority on the board. In preparation for the meeting, Steven M. Hilton, grandson of the founder and incoming CEO of the foundation, prepared a memo to the board on engaging the next generation of Hilton family members:

*“I sincerely believe there is something special about keeping the Hilton family engaged with this Foundation. To ensure that Conrad Hilton’s wishes continue to be reflected in the Foundation’s grantmaking and that his charitable legacy continues to inspire other members of the Hilton family, I believe we should think about how best to engage the family and help educate them in the ways of thoughtful philanthropy.”*

At the meeting the Board amended the foundation’s Articles of Incorporation to ensure that direct descendants of the Founder would constitute a majority of the Board going forward. The Hilton Board currently includes two second-generation, four third-generation, and five non-family members.

### **Strategy 3: Specify the number of board seats to be filled by family and/or non-family members and/or explicitly state the desire for continued family participation in the foundation.**

In more than 20 years of activity, [The Nord Family Foundation](#) has contributed more than \$79 million for charitable and philanthropic purposes in Lorain County, Ohio, and in several other communities of interest to the children, grandchildren, and great-grandchildren of Walter and Virginia Nord. On its website, the foundation describes its decision to specify the number of board seats to be filled by family and non-family members as follows:

*Members of the Nord Family Foundation board consist of the adult descendants of Walter and Virginia Nord as well as their spouses and adopted children. Now numbering more than 45 persons, they meet annually to participate in the development of the Foundation’s policies and*

*continued on page 14*

**RETAINING CONTROL (CONTINUED)**

*grantmaking strategies, and to elect the Board of Trustees. Nine of the Trustees are chosen from the Membership; three additional Trustees are drawn from the community at large.*

The Lumpkin Family Foundation centers its activities in East Central Illinois, where the Lumpkin family operated a business for more than 100 years. The foundation's board, now led by the 4th generation of the Lumpkin Foundation's donors, has documented both the importance of ongoing family participation in the foundation's identity, as well as its decision to involve non-family trustees:

*Family members currently fill six of nine seats on the Board of Trustees and serve on all grantmaking and management committees. The Committee on Trusteeship was created to support the growth and participation of members in relation to The Foundation's need for leadership. At age 10, children begin their involvement with the Next (Sixth) Generation Committee. The Committee makes small grants to organizations whose mission and work the children think are compelling. Children become Foundation members at age 16.*

*While family participation is essential to our identity, our members value the involvement of others whose expertise and knowledge support the achievement of The Foundation's goals. Independent (non-family) members currently participate on our grantmaking committees where most grant decisions are made. We also involve community leaders in ad hoc advisory committees and regularly consult community members when we are developing new programs or evaluating existing ones.*

**Strategy 4: Create a membership structure whereby only family members are given the responsibility to elect or remove board members.**

The David and Lucile Packard Foundation uses a two-tiered governance structure in which only relatives of the founding donors, defined as the children of David and Lucile Packard, their spouses and children, are eligible to be Members of the Foundation. Members of the foundation, which currently only include the four children of the founders, are charged with electing the Trustees, who in turn govern the foundation.

According to The Packard Foundation's website, *The Packard Foundation is governed by a board of directors referred to as the "Board of Trustees."* The Board consists of three classes of Trustees: Family Trustees, General Trustees, and an Ex Officio Trustee. There are thirteen authorized Trustees: five Family Trustees, seven General Trustees, and the President, who is the Ex Officio Trustee.

1. *Family Trustees are elected by the Members of the Foundation. The terms of Family Trustees may be 1- 2- or 3-years as determined by the Members. There is no limit on the number of terms a Family Trustee may serve.*
2. *General Trustees are nominated by the Board of Trustees and are elected by a majority of the Trustees then holding office. The term of each General Trustee is three years. A General Trustee may serve up to three consecutive three-year terms in office, unless a special exception is made.*
3. *Ex Officio Trustee is a voting member, and is a Trustee by virtue of holding the office of President of the Foundation. The term of office of the Ex Officio Trustee is concurrent with his or her term of office as President.*

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**Jason C. Born, Editor**

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