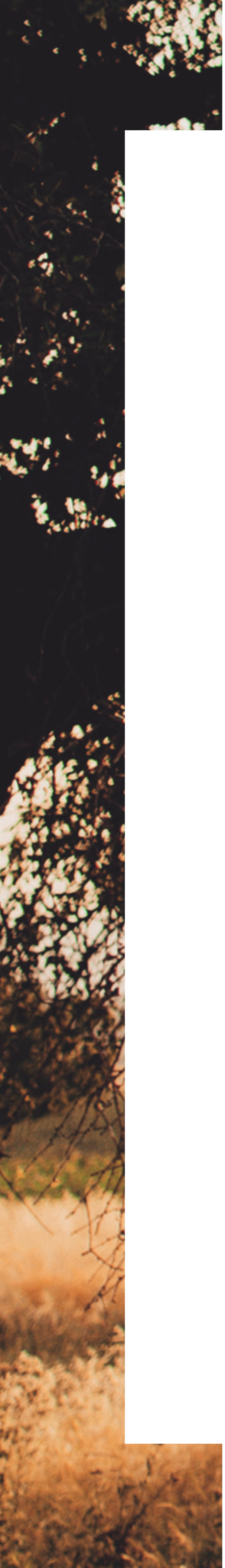
BERNSTEIN

Govern Your Giving

Putting Structures in Place to Promote Philanthropic Traditions



Over the next quarter century, nearly $50 trillion is slated to transfer from Baby Boomers to subsequent generations—and a healthy share of it will likely go toward philanthropic endeavors.[1] Consider that donors bequeathed an eye-popping $41.91 billion to charity in 2020, representing 9% of all charitable gifts made that year.[2] If that trend holds, over $450 billion will become available in the next 25 years to make a positive difference in the world.

Notably, in a recent study of family philanthropy, nearly two-thirds of respondents cited "instilling philanthropic values and a sense of moral responsibility" as their top strategy for engaging the next generation.[3] Establishing a tradition of family giving can align loved ones around core values, foster financial education, and transmit altruistic tendencies to future generations. For some families of wealth, a commitment to philanthropy represents a core part of their identity. These families define their wealth as more than passing down financial assets. Rather, they aspire to use collective resources to create a positive and lasting impact on society.

However, differing personalities and fraught family dynamics can complicate efforts to unify philanthropic goals. The tendency to support certain causes or types of organizations may shift from one generation to the next. For example, many Baby Boomers prefer to donate to churches, local social services, children's charities, and animal rescues. Meanwhile, Millennials gravitate towards health charities, human rights, and international development (**Display, next page**).[4] How do thriving families encourage collaborative decision-making, unite members behind a common mission that reflects shared values, and achieve philanthropic success across generations? Incorporating philanthropy into a family's governance system creates a forum for open dialogue and decision-making, establishes a framework for intentional and collective charitable endeavors, and helps families make a positive impact.

The first paper in our governance series, Ties That Bind: How Sound Governance Supports Family Success, explores family governance as a framework for communication and decision-making. It provides a road map to organize families and guide their wealth transitions, along with transmitting knowledge and values. Many of the components of strong family governance referenced herein are discussed more thoroughly in *Ties That Bind*. But that's merely a starting point. To ensure effective governance, each family must establish its own policies and procedures, and base its structure on shared family values.

1 Cerulli Associates: HNW Transfer of Wealth. Accessed April 2022.
2 Giving USA 2021 Report.
3 Campden Wealth Limited and Rockefeller Philanthropy Advisors: Global Trends and Strategic Time Horizons in Family Philanthropy 2020. https://www.rockpa.org/wp-content/uploads/2020/01/Global-Trends-and-Strategic-Time-Horizons-in-Family-Philanthropy_FINAL.pdf
4 Bridgeworks: Four Generations for Charity: Who really gives a buck. Phil Gwoke. April 2022. https://www.generations.com/insights/four-generations-for-charity-who-really-gives-a-buck

EVERY GENERATION GIVES—IN THEIR OWN WAY

Traditionalists (1925-1945)

27.1

million donors in the US

88% give

Likely to support:

- Place of worship
- Social services
- Troops/veterans
- Emergency relief

Baby Boomers (1946-1964)

51.0

million donors in the US

72% give

Likely to support:

- Place of worship
- Social services
- Children's charities
- Animal rescues

Generation X (1965-1980)

39.5

million donors in the US.

59% give

Likely to support:

- Place of worship
- Social services
- Children's charities
- Animal rescues

Millennials (1981-1996)

32.8

million donors in the US

60% give

Likely to support:

- Children's charities
- Place of worship
- Health charities
- Human rights
- International development

Source: Bridgeworks: Four Generations for Charity: Who really gives a buck. Phil Gwoke. April 2022.

Well-executed family governance helps optimize a family's philanthropic pursuits by creating a system to organize and manage the giving process. Families must work together to articulate their guiding principles, including their philanthropic mission and values. Answering questions like, "What are our shared beliefs? What distinguishes us from other families? How might we, as a family, meet the most pressing needs of society?" This important upfront discovery work will later inform the most appropriate giving program and structure(s) for the family.

Effective governance encourages different perspectives and promotes family cohesion by aligning the family behind a set of shared values. It also supports family integration by outlining a process to onboard rising generations into the family's philanthropic purpose. This plan allows the next generation to bring new ideas and solutions to the table while providing them with valuable learning and growth opportunities.

In this paper, we will review the role governance plays in memorializing family values, setting expectations, and providing accountability and guidance for a family's shared philanthropy. We will also highlight various considerations when executing generational giving and how different governance structures can help organize, systematize, and focus a family's charitable strategy.

What is our capacity to give?

When charitable intent exists, a family should quantify their capacity to give. At Bernstein, we use a framework to ensure owners sustain their "core capital": the amount of money needed today to secure living expenses for the rest of their lives. Utilizing our Wealth Forecasting System℠, we estimate core capital conservatively, assuming individuals may live beyond their actuarial life expectancies, that high inflation might drive up spending needs, and that deep bear markets may depress portfolio values from time to time. Additional assets, if any, are "surplus capital" that can be spent on sizable gifts to charity. Prior to developing any philanthropic strategy, we quantify core and surplus capital to ensure the approach does not divert assets that are required to meet lifetime spending needs, pay income taxes, or satisfy other personal goals.

Bringing the Family Together

With people living longer, family philanthropic funds often involve up to four generations.[5] Philanthropy creates an opportunity for family members to join forces and steward resources to make an impact, however the family defines it. Yet deciding how and where to give can become overwhelming—especially when multiple family members weigh in. By establishing clear roles and responsibilities and initiating conversations about values and learnings, families can align as they pursue positive change. Some families will even apply the same level of strategic planning to their giving as they do a family-owned business enterprise.

Who Gets Involved? Establishing Roles and Responsibilities

As philanthropy becomes multigenerational, family members should decide who will have voting privileges and who will serve in an advisory capacity. Every family's approach will differ depending on the level of wealth and engagement across generations. Research shows that in the US, the next generation tends to engage in families' charitable endeavors through board service (45%), conducting site visits (38%), and developing grants (32%).[6]

Some families who can support the setup and operating expenses—and whose members want to devote more time—may consider a private foundation. Others may find a donor-advised fund (DAF) more appropriate in terms of facilitating the family's collaborative giving goals. Depending on the structure established, there can be formal roles, such as officers for a foundation, and informal roles, such as advisors, ex-officio members[7] and committee members for family meetings. Regardless of the level of responsibility, defining the criteria and expectations for each role, and the expertise required, is critical. From the outset, written role descriptions set clear expectations for everyone.

After defining the participation parameters, the decision-making process itself comes to the fore. Questions to consider include:

- Who suggests grant ideas to the family or board for consideration?
- How do you determine who becomes a board member?
- How does the family or board cast votes? Is consensus reached by a preset threshold of agreement, or a majority?
- How many family members must participate in the vote?

Families should be realistic about each member's skills, interest level, and time commitment, keeping in mind members' capacity for philanthropic involvement may shift over time. Establishing this upfront ensures families distribute work appropriately.

Aligning Values with Family Giving

Philanthropy is an inherent expression of values, and charitable giving—whether of time or treasure—is often an embedded principle passed from generation to generation. Without a shared set of ideals, a family's philanthropic goals can lead to distancing, lack of cohesion and purpose, and a loss of interest or support over generations.

Success starts with an open dialogue around values. A family should devote time and energy to understanding and articulating what the family stands for as a group. This process can be enlightening and bonding, revealing common interests and new possibilities for advancing the greater good. By discussing a family's shared values, how they distinguish themselves from other families, and what they want to accomplish, members can determine areas or causes that matter most.[8]

> Every family's approach will differ depending on the level of wealth and engagement across generations.

5 *Generation Impact: How Next Gen Donors Are Revolutionizing Giving.* Sharna Goldseker and Michael Moody. Wiley; 1st edition (October 2, 2017).
6 Campden Wealth Limited and Rockefeller Philanthropy Advisors: Global Trends and Strategic Time Horizons in Family Philanthropy 2020. https://www.rockpa.org/wp-content/uploads/2020/01/Global-Trends-and-Strategic-Time-Horizons-in-Family-Philanthropy_FINAL.pdf
7 Ex-officio is a Latin term that loosely translates to "by virtue of holding another office." An ex-officio member is a member of a board or committee, council or other body that receives a position on that body solely because of holding another office. https://www.boardeffect.com/blog/ex-officio-board-members-impact-board-decisions-nonprofit/#:~:text=What%20Is%20an%20Ex%2DOfficio,because%20of%20holding%20another%20office
8 Philanthropy in the Family Office: A Global Perspective, Global Family Office Community and Hammer & Associates, 2015, Suzanne Hammer with Elaine Gast Fawcett.

However, each generation brings unique experiences, giving approaches, and preferences. In these cases, families can strive for alignment, rather than agreement, to move the conversation forward. Alignment means agreeing on a common goal and accepting there may be more than one way to achieve success—an approach that leaves space for differences in priorities and perspectives. Having this discussion upfront influences future philanthropic work, and the emphasis on areas of alignment (instead of differences) can reduce conflict down the road. Families should also revisit values annually to ensure they reflect the ever-changing dynamics of a multi-generational family (for specific ideas, see *Family Assembly, page 7*). Doing so helps maintain shared ownership and accountability over the family's philanthropy as issues and factors evolve.

Cultivating philanthropic values across generations helps foster responsibility and a sense of purpose for both young and old. Once the family establishes common ground on values and purpose, the conversation about how to reach it through mission and strategy becomes easier.

Prioritizing What's Most Important

Whether it's making large one-time grants, recurring monthly donations, or responding to social media campaigns, the multitude of ways to give back can overwhelm any donor or family. Creating a thoughtful giving strategy can help grow and maximize the family's philanthropic impact, no matter where they are on their philanthropic journey. Start by identifying causes that matter most and reflect the family's shared values. Write them down—the list may include community development, the environment, animals, gender inequality, religion, or humanitarian aid, for example. While each cause can be deeply personal, look for themes that resonate. What other areas might be missing? Discuss these causes with other family members to uncover both shared initiatives and differences. What motivates the family to give? Is the family's generosity driven by current events, personal appeals from friends/colleagues, disaster relief, recognition, or tax benefits? These catalysts can help refine a giving plan. To round out the plan, pinpoint where the family wants to make an impact. The target could range from helping an individual or local community to an entire country or even the world.

Five Steps to Grow Your Giving

After each family member determines his or her top charitable causes and catalysts, everyone should rank them in order of importance. From there, the family can assign percentage weights to each cause to inform the allocation of charitable dollars (a charitable budget). For example, if the family prioritizes three key areas of focus, will they all receive an equal amount, or will 50% go to the top priority with the remainder split between the other two? By conveying priorities, the family can craft an annual giving budget with guardrails for distributions. These guidelines provide a benchmark to measure actual giving against expectations and helps families plan for future grant expenditures.

Charitable Budget Considerations:

- What is our giving capacity?
- What's the right amount to give?
- Is there a maximum we should give to a single organization?

Finally, communicate the plan to family members, tabling individual and shared goals as well as expectations for implementing the plan. Perhaps the greatest measure of success is to consider the impact on the family itself.

A Way to Prioritize What Matters

Bernstein's **Growing Your Giving** cards are an interactive tool to help families identify their philanthropic priorities. By reflecting on priorities in a simple and accessible way, family members gain insight into what motivates their giving while solidifying the causes that matter most to the broader group. For some, that may be a short list while for others, it may be lengthy. Bernstein's Philanthropy team works closely with families to facilitate these discussions and helps create a philanthropic budget, track impact, and make revisions over time.

Role of Family Governance

Governance helps organize a family's philanthropy by capturing family values, giving goals and mission, who participates, grant recommendations, and ways to educate and engage younger members over time. Crafting a governance system that considers a family's specific dynamics can improve communication and decision-making. Leading with a governance framework ensures family members understand their roles and how they fit into the family's philanthropic mission.

Family philanthropy can also represent an early practice in joint decision-making. In fact, research shows that many philanthropists are open to a collaborative approach. When asked how they would handle a proposed change to their current strategy suggested by the next generation, 66% of US respondents in a recent study said that they would "listen to the next generation's plans before making an informed decision."[9] By deploying funds earmarked for charity, members can work together in a non-threatening way towards a shared purpose. And by separating philanthropic dollars from personal wealth, members avoid concerns about potential negative repercussions on the family's livelihood. Ultimately, learning to partner on a philanthropic mission can provide training for the family without affecting individual wealth. In fact, families can use philanthropy to involve children in decisions about wealth, pass on values and create a legacy—while still maintaining control over how and when total family wealth is revealed.

The following structures and agreements, among others, aim to help families balance what is inherited from earlier generations—in terms of ways of doing and thinking—with what a family co-creates together. Governance should integrate the voices and experiences of all participating members and capture guiding principles and practices.

- Mission statement
- Family assembly
- Family constitution
- Other governance policies (e.g., investment policy statements, decision-making policy, donor intent letter, conflict-of-interest policy)

Regardless of the structures established, families can unlock their giving potential with an intentional and thoughtful plan.

Crafting a mission statement to support a unified philanthropic vision

Making philanthropy a family-oriented affair means focusing on what brings a family closer by inspiring the whole group. Ensuring that family giving is guided by a consistent set of values begins with creating a mission statement—an intentional expression of family values. The declaration also outlines the family's primary philanthropic purpose and objectives and describes how they intend to accomplish that purpose. A well-written mission statement identifies factors that inspire giving and outlines why families contribute to certain organizations. These defining factors may include personal relationships, pivotal experiences, or schools attended.

Mission statements are a fundamental building block of a family's philanthropic work, so they deserve attention. A family must identify a common objective to work through possible generational differences and perpetuate a shared legacy—all while making sure collective goals do not prevent individual members from pursuing their own passions. This process tends to take time and patience. A charitable mission statement can be used to set short-, mid-, and long-term goals and to formulate a strategic plan that guides current and future activities.

9 Campden Wealth Limited and Rockefeller Philanthropy Advisors: Global Trends and Strategic Time Horizons in Family Philanthropy 2020 https://www.rockpa.org/wp-content/uploads/2020/01/Global-Trends-and-Strategic-Time-Horizons-in-Family-Philanthropy_FINAL.pdf

When crafting a charitable mission statement, families should avoid making the statement overly general or specific. Too vague gives little direction to future leaders and board members while naming a specific organization could render the purpose irrelevant in the future. Mission statements not only guide which types of organizations a family supports, but also identifies those to avoid. A mission statement can help filter different asks and crystallize what is most important to the family.

Over time, a mission statement that provides clarity tends to foster more strategic collaborative giving.

To maximize its utility, the statement should be seen as a dynamic expression that allows families and boards (in the case of a foundation) to modify giving strategies based on changing conditions and lessons learned. As part of the creation process, families should also outline circumstances prompting adjustments and what the revision process looks like. Reviewing the statement every three to five years allows families to course correct as needed. Otherwise, making changes too frequently can undermine the direction. As families measure progress or wealth grows, strategies can be added and refined. Over time, a mission statement that provides clarity tends to foster more strategic collaborative giving.

Organizing and Sharing at a Family Assembly

As a family branches out in size and location, philanthropy can act as the tie that binds. Family assemblies offer opportunities to connect, plan giving and organize possible service projects. A family assembly is a regular gathering of all active adult members, their spouses, and children over a certain age. The meeting is an opportunity for members to come together and discuss how the family will respond to grant requests arising from current needs and events. The assembly is also a place for members to share information and perspectives, and make decisions openly, instilling confidence in how the family allocates charitable resources.

More specifically, the assembly is a time to determine guidelines for giving, how to fund shared donations, criteria for selecting grant recipients, and policies for evaluating effectiveness. Ultimately, the directives established during the family meeting guide the formal grant-making decisions made by a foundation board or DAF. Time spent together in family assemblies can ground everyone in an understanding of how the family's philanthropic endeavors operate along with each member's roles and responsibilities. Additional agenda topics might include discussions of shared values, mission statement creation and confirmation, education sessions, and grantmaking.

The family assembly is also a time for families to decide how best to onboard younger members. This approach should focus primarily on understanding financial and charitable concepts and aligning with individual priorities and interests. When the time arrives for the next generation to step up, a multi-generational retreat can help integrate them by sharing the family's history along with the founding philanthropic vision and legacy, historical grantmaking and funding guidelines.

Defining Giving in the Family Constitution

The family constitution—a formal document that includes all the agreements, policies, and expectations that govern interactions and decision-making—is a good place to capture a family's philanthropic views and goals. Ideally, the best constitutions describe what it means to be a contributor to the ongoing stewardship of family philanthropy. The document can outline how the family defines and acts on its values, its role in the community and the environment, and the family's practices and policies for giving back. For example, a family could stipulate that at the age of 16, every member must volunteer at a charity every other weekend for a year to acquire voting privileges.

Additional Governance Policies

Many families document policies guiding members' interactions and the giving process in the family constitution. It is helpful to define how the family makes decisions and the responsibilities of each member involved. Codifying policies helps avoid conflicts and provides a blueprint for involvement for those who are new to the family's philanthropy (**Display**). At a minimum, typical considerations include:

- A donor intent statement,
- investment policy and spending policy statements (including grantmaking, fees, and expenses),
- decision-making policy, and
- conflict-of-interest policy.

As family philanthropy evolves, families should revisit practices and policies, making updates to reflect changing needs when appropriate.

Sample Conflict of Interest Policy[10]

It is the policy of the <blank> family that family members do not engage in activities that present a conflict of interest with regards to recommending grants from the family's donor-advised fund or receive direct personal benefits including salary or any other forms of compensation from their association with the fund. If any of the above individuals, or a member of that person's family, receives money from, is a major contributor to, or serves as an advisor, director or trustee with an organization which may receive funds from the <blank> family's donor-advised fund, then the potential conflict must be declared and handled in a manner appropriate to the circumstances. Similarly, when the family is considering a transaction or arrangement that might benefit the private interests of a family member, the potential conflict must be declared and handled in a manner appropriate to the circumstances. Any family member having a conflict of interest with respect to a grant recommendation, transaction, or other arrangement decided upon by the family, shall be precluded from voting on matters pertaining to such grant recommendation, transaction, or arrangement.

CONSIDERATIONS FOR DIFFERENT POLICIES

Donor Intent Statement:

- State reasons for starting the charitable vehicle
- Declare specific goals and objectives
- Describe ideal results
- Outline philanthropic causes that are of no interest

Investment Policy Statement:

- Capture investment philosophy, goals, and time horizon
- Align investment strategy with philanthropic mission and spending policy
- Define roles and responsibilities for decision-makers
- Ensure continuity of purpose and process
- Reinforce a fiduciary culture

Decision-Making Policy:

- Be clear about who is involved in decisions
- Outline how roles may change based on the topic and type of decision
- Create a clear onboarding process to welcome new members
- Revisit regularly to account for shifting family dynamics and structures

Conflict-of-Interest Policy:

- Outline how transactions or grants handled if a member has an interest in an organization
- Be clear about definitions
- Clarify procedures for addressing different interests and conflicts
- Create a schedule for periodic reviews of member activities

Source: National Center for Family Philanthropy's Family Philanthropy Online Knowledge Center. www.ncfp.org

10 National Center for Family Philanthropy's Family Philanthropy Online Knowledge Center. www.ncfp.org

Implementing Strategies to Support the Family Mission

Once the family determines the ideal way to work together and establishes policies and a governance framework, the fun part begins—executing the plan! Families can advance their philanthropic goals in many ways. Guided by the charitable mission statement, families can take the following steps to help craft a thoughtful giving strategy:

1. **Evaluate different charitable approaches:**
There are many choices, but the decision depends on the family's unique circumstances, including communication preferences, financial details, goals, size of family and ages of members involved, time horizon, and views on anonymity and assets.

2. **Monitor decision-making, charitable budget, and timeframe:**
Annually, families should agree on the level of support for different causes, potential response to current events, allocation of charitable dollars, and timing of grants.

3. **Define the desired philanthropic legacy and put a succession plan in place:**
Articulate the enduring desired impact and outline a plan for giving in the future, if perpetuity is a goal.

What charitable approach makes sense for the family?

There is no "one-size fits all" when establishing one or more family-giving entities. When evaluating their options, families should reflect on how the mission statement defines their shared values and outlines their goals. These statements—as well as how families wish to communicate and make decisions—help guide what will be funded and how.

To facilitate giving, families have access to several approaches, including direct contributions, using a DAF, establishing a private foundation, and forming a limited liability company (such as the Chan Zuckerberg Initiative).[11] Many families use both a DAF and private foundation in tandem. These are just a few strategies that can nurture a philanthropic tradition and structure giving. Each approach has varying degrees of compliance, with different advantages and drawbacks. Some families weigh tax considerations heavily in their decision-making. For instance, the transfer of assets to a private foundation and DAF is irrevocable and considered a complete charitable gift according to the Internal Revenue Service (IRS)—meaning the donor takes an immediate charitable income tax deduction that same year. More detailed technical information can be found in Rooted in Your Values, a comprehensive guide that helps philanthropists weigh trade-offs. Below we highlight some key considerations among common giving practices.

Direct contributions

Making direct contributions to a nonprofit or qualified charity[12] is a common philanthropic strategy. It gives families the most control as they direct their giving. However, families will need to agree on the form of support they wish to provide. While all nonprofits accept cash donations, some cannot handle publicly traded securities or other assets. Notably, providing direct contributions makes it more difficult to remain anonymous—a key consideration for families who place a premium on privacy.

Donor-advised fund

A donor-advised fund is a giving account established within a public non-profit sponsor organization, such as a community foundation. Donors may contribute cash, appreciated stock, real estate, or other financial or business assets, depending on the capabilities of the DAF sponsor organization. Like other public charities, DAFs offer better tax advantages than private foundations for contributions of illiquid assets and for donors who wish to donate high percentages of their incomes.

The main difference between a DAF and a private foundation comes down to control. A private foundation is a legal entity over which the family or board of trustees retain control. As the name implies, the donor in a DAF plays an advisory role with respect to investments and distributions. The sponsoring organization handles recordkeeping and other administrative tasks, while vetting, approving, and disbursing grants.

The two vehicles also diverge when it comes to family legacy—DAFs typically last one or two generations, whereas private foundations are often designed for perpetuity. Whether succeeding generations can participate in a DAF program depends on the sponsoring organization's rules. If the family wants children and grandchildren to continue their

11 The purpose of the Chan Zuckerberg Initiative LLC (CZI) is to "join people across the world to advance human potential and promote equality for all children in the next generation." https://chanzuckerberg.com/

12 "Qualified" charities or nonprofit organizations as defined under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended ("Code").

philanthropic mission, finding a DAF that permits successor advisors is critical. Alternatively, the family could consider creating a private foundation.

The IRS imposes no annual payout requirement or conditions for the timing of grants to public non-profits from DAFs (although legislation has been proposed to amend these rules).[13] Finally, because DAFs do not have to file tax returns, they require less administration and offer more privacy than private foundations. A DAF may be most suitable for families who can use an immediate charitable income tax deduction but wish to postpone distributions to a later date or make them at a slower pace.

> A family intending to pass the directorship of the private foundation to children and grandchildren should engage them in giving and governance creation early.

Private foundation

Many families start a private foundation—or, more specifically, a private nonoperating foundation—also known as a family foundation. These tend to be best suited for wealthy families who make significant philanthropic contributions and have the resources (and expertise) to oversee the organization while maintaining control over grant-making, investments, and operations. Families can also structure the foundation as perpetual, providing a long-term platform for members to work together towards positive change for generations to come. If having a formal structure is important, a private foundation is often an optimal choice.

A private foundation gives the family control over the composition of the board of directors or trustees governing the entity. With the family's guidance, the board oversees the investment portfolio and responds to grant requests. Within the foundation, donors can hold almost any asset—including private equity and real estate—though there are limits to holding family business assets. The IRS requires a 5% payout, meaning private nonoperating foundations must annually distribute

a minimum of 5% of the value of their net investment assets in the form of grants, eligible administrative expenses, and Program Related Investments (PRIs).[14] Operational expenses, such as voting board members' cost to attend the family assembly, the hiring of advisors/consultants, and site visits also count towards the required payout. This helps attract talent and convene the family.

Private nonoperating foundations can also give in ways that may not be available via other strategies. Some of these include fellowships, making grants to individuals and engaging in direct charitable activities.

Private nonoperating foundations must report all activities to the IRS annually. Form 990-PF[15] asks for a detailed report on investments and expenditures for administrative and grant purposes. Usually, the foundation's accountant or attorney completes the form. The need to file annually with the IRS also limits anonymity.

A family intending to pass the directorship of the private foundation to children and grandchildren should engage them in giving and governance creation early—while assessing their interest and wherewithal to assume responsibility someday. If the children object, then the family has several options. They can shift the private foundation into spend-down mode or convert it to a DAF that spends down its assets within approximately 20 years. Another common strategy is including non-family community members on the board, as well as hiring paid staff to manage daily activities.

13 https://www.congress.gov/bill/117th-congress/senate-bill/1981

14 Program-related investments are those in which: the primary purpose is to accomplish one or more of a private nonoperating foundation's exempt purpose, production of income or appreciation of property is not a significant purpose and influencing legislation or taking part in political campaigns on behalf of candidates is not a purpose. https://www.irs.gov/charities-non-profits/private-foundations/program-related-investments

15 Private foundations are required to file a Form 990-PF each year. The form includes information on the foundation's assets, grants made, financial activities, and the names of trustees and officers.

Additional Governance Considerations When Setting Up a Family Foundation

A private foundation is an efficient way for a family to achieve its charitable goals while allowing members to take ownership of the family's charitable efforts. Once a family decides to pursue a foundation, it is important to take care of legal considerations early in the process. This includes filing the required forms and preparing governing documents. Board members must understand their roles and duties, which may include establishing the strategic direction of the foundation while reflecting the family's shared set of values. Adding non-family members may lend additional expertise and diversity. It may also help mitigate any family tensions that arise.

The daily administrative tasks of running a foundation include writing checks and paying bills, preparing financial statements and reports, and keeping records. The foundation can outsource these duties or have family members assist, provided they have the required skills. These tasks can offer an excellent opportunity for younger family members to learn and develop. For instance, involving younger members in discussions about grant opportunities can enhance business skills such as communicating, presenting, and leadership, while conversations about the foundation's assets and investment policy statement sharpen their investment acumen.

Many families establish a junior board to foster the next generation of donors and hone the talent and perspectives of younger family members. Typically, a junior board involves family members under the age of 35 who are eager to devote their time. Members support the foundation's leadership while gaining hands-on experience with operations, board governance, budgeting, and project management. Unlike the board of directors, the junior board typically does not have official governing power or fiduciary responsibility. Instead, the junior board is designed to cultivate younger generations as effective philanthropists.

Working together in a family foundation opens opportunities to support passions, embody core values and share in the satisfaction of the progress achieved. Yet, obstacles may arise that undermine cohesion—for instance, when generational values diverge. In these cases, families can leverage different philanthropic resources to navigate roadblocks, find common ground, and continue evolving as a family.

Private foundations may not be the right choice for every family, due to their intricacies. However, they can help unify a family behind important causes while developing responsibility and leadership skills.

Additional Governance for Family Foundations: Foundation Bylaws

If the foundation is legally formed under Internal Revenue Code Section 501(c), bylaws should be adopted that will govern the day-to-day operations.[16] Bylaws are legal documents that raise the level of accountability, transparency, and effectiveness. They help to guide the foundation board's actions and decisions and can help prevent or resolve conflicts and disagreements. Bylaws can protect the foundation from potential issues by clearly outlining rules around authority levels, rights, and expectations. How often should the board meet? How is a board member removed? Bylaws supplement the rules already defined by the state corporations code and guide the foundation's operations so it's important to review applicable state laws and ensure the bylaws comply. Good bylaws should match the foundation's charitable mission, goals for governance, and operational needs, among others. As a best practice, family foundations should have access to competent legal counsel to brief board members on their responsibilities to protect the foundation and invest assets prudently, among other duties. Legal counsel also helps keep the board apprised of new Treasury regulations, IRS rulings (both private and "public"), and other IRS notices.

What is a Private Operating Foundation?

Private operating foundations are thought of as "hybrids" of private nonoperating foundations and public charities. A family establishes one to operate charitable programs or provide charitable services. For example, a private operating foundation could run a soup kitchen that provides free meals. Like a private nonoperating foundation, a board of directors manages the private operating foundation. Private operating foundations use most of their income to operate charitable programs and are not subject to the 5% minimum payout requirement imposed on private nonoperating foundations.

16 A family foundation can also be established as a trust or a corporation under state law. If established by a trust agreement or articles of incorporation, these documents are critical and take precedence over the bylaws and other ancillary governing documents. While a trust generally has fewer requirements for record keeping, annual filings and setup, it is also a more formal structure that may require a court order if donors want to make changes once it is established. A corporation may be more flexible and provide more legal protection for officers but usually requires more paperwork. Modifying provisions also requires an amendment to the articles, which may entail the unanimous consent of members or directors. Families should consult a professional before determining which structure is appropriate.

Limited Liability Company

Families seeking maximum flexibility may bypass the tax-exempt structure altogether by forming a for-profit limited liability company (LLC). Charitable LLCs are less regulated and enjoy more privacy and control, along with greater latitude when it comes to spending—but there are caveats.

For example, Facebook founder Mark Zuckerberg and wife Priscilla Chan established a for-profit charitable LLC in 2015, known as the Chan Zuckerberg Initiative. Together they pledged approximately $45 billion, declaring they would donate 99% of their Facebook shares to charitable causes during their lifetimes. The LLC accompanies the Chan Zuckerberg Foundation and a DAF with the Silicon Valley Community Foundation.

There are many distinct differences between an LLC and a private nonoperating foundation. LLCs are not subject to annual distribution requirements, provide flexibility to invest in domestic and foreign for-profit entities, and permit donations to political campaigns and individual candidates. LLCs tax filings do not have to be made public and donors can dedicate large amounts of their enterprises to philanthropic purposes without endangering the ownership of their businesses. For example, if Zuckerberg and Chan donated Facebook stock to the foundation instead of the LLC, they would be forced to relinquish control of Facebook over time since federal tax law prohibits excess business holdings.[17] If the LLC is dissolved, its capital can be returned to the LLC members; however, when a foundation is dissolved, its assets must be granted to another charitable organization.

In terms of drawbacks, LLCs do not provide immediate charitable income tax deductions and cannot pass assets to future generations without incurring estate taxes (unlike private foundations). While an LLC can serve as the entity through which a family carries out its philanthropic objectives, they involve tradeoffs and should be examined carefully in the context of overall family goals, philanthropic missions, and financial strategies.

The right giving approach will vary from family to family. Setting up a family foundation can help rising generations grow and expand their professional skills—but direct grants and DAFs remain cost-effective, convenient, and flexible. Families can also establish and fund charitable gifts as part of a testamentary or estate settlement or a business transaction. In all cases, crafting governance structures prior to funding (or fully funding) a strategy eliminates possible pressure to make or respond to grants. It can also lead to more cohesive giving. Regardless of the strategy employed, families can accomplish a piece of their charitable mission by working together on philanthropic endeavors, resulting in tighter bonds across generations.

Engaging Digitally

Some families use online platforms to document philanthropic activities, stay on track, and measure impact. Having a central location where members can submit grant requests, review agreed-upon distribution requirements, and connect and collaborate can enhance engagement across generations and provide additional oversight for the philanthropic vision.

CASE STUDY: Exiting Entrepreneurs Become Confident Philanthropists

Joe and Susan sold a business, netting a $50 million windfall. Currently in their mid-50s, they agreed to shift their focus from working to philanthropy and reached out to Bernstein for advice. They were worried their newfound wealth could adversely impact their three children. Ultimately, on the advice of their Financial Advisor, CPA, and attorneys, they set aside $20 million to start a donor-advised fund. The team of advisors encouraged the pair to use family philanthropy to reinforce their values, establish a joint decision-making process, and ensure their children would be able to continue their legacy after they passed away.

When the time came to discuss deploying charitable dollars, Bernstein hosted a family meeting and facilitated an exercise to help the family identify the causes that mattered most, what inspires them to give, and where they wished to make an impact. They left with an agreed-upon budget for allocating charitable dollars towards different focus areas aligned with each person's philanthropic goals. The family also planned a meeting for each Thanksgiving to review all charitable grants for the year, discuss future nominations, and assess their charitable budget to ensure they stayed on track. Above all, they captured a process in writing to help guide future conversations and decisions. This structure laid the groundwork for the family's involvement in the philanthropic mission and established a framework for working together. After memorializing the plan, Joe and Susan felt highly confident in fulfilling their philanthropic legacy.

17 Philanthropyroundtable.org. A private foundation or DAF can hold up to 20% of the voting stock of a corporation, partnership, or trust, including stock owned by disqualified persons. The IRS will consider any amount above 20% an "excess business holding" that will have to be removed from the foundation's balance sheet within 5 years.

Developing the next generation

Families with multiple generations often find it beneficial to develop a program that trains new and younger members on topics like finance, family values, and philanthropic roles and responsibilities. Having an effective program also helps advance family members' leadership skills and financial acumen in other aspects of their lives. Involving younger members in the family's charitable mission is an excellent way to teach the next generation about the financial stewardship of giving back. Some families create separate charitable funds that allow the next generation to practice applying family guidelines and making decisions together. Others invite younger members to observe board meetings or create junior boards or advisory committees. These disparate structures give members a degree of independence in participating. Taking on a leadership role gives the next generation a sense of purpose and responsibility, while helping individuals develop a greater sense of self-worth, pride, and stewardship.

Next Generation Grants

One way for families to encourage participation is through a grant program. Younger members can research a community non-profit organization they would like to support. After completing their inquiry—which may include a site visit—the next gen member submits a grant request. With the help of parents, children as young as elementary age can practice these techniques.

The key to engaging the next generation successfully is to involve them over an extended period, providing plenty of time for them to naturally become more interested and knowledgeable. Family members must understand they are stewards—rather than owners— of the family's philanthropic wealth. Once members internalize this concept, they can focus more on the best use of charitable dollars.

Managing Conflict

As with any exercise in family collaboration, the philanthropic planning process can spark disagreements. Families should develop a plan for managing such conflicts, should they arise. Rather than dictating choices, some families require consensus before deciding; others develop a compromise strategy. If challenges persist, families can revisit their original giving objectives. Most importantly, families should preemptively establish processes to handle conflict and encourage open conversations. The family assembly can be a forum for honest conversations and the constitution can be used to capture guiding principles and clarify rules and standards.

Conclusion

Adopting formalized governance for philanthropy enables families to build charitable traditions that preserve shared values while providing a framework for practicing life skills such as, collaboration, open communication, and conflict resolution. Crafting a mission statement as a family helps ensure collective giving is guided by a consistent set of values, whether families use a private foundation, donor-advised fund, or another vehicle. Other families may use governance structures like a family assembly to open unfettered lines of communication and better engage the next generation. Regardless of a family's approach or charitable strategy, documenting the policies and procedures for decision-making builds a strong foundation for future philanthropic activities. When done well, a customized governance framework that is flexible and adapts to a family's philanthropic goals can strengthen family ties, build a tradition of giving for future generations, and make a lasting difference in the world.

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