41st Annual Nonprofit Organizations Institute
February 8-9, 2024 • Four Seasons Hotel • Austin, TX

Thursday Morning, Feb. 8, 2024

Presiding Officer:
Tony Fundaro, Philanthropy Southwest - Dallas, TX

7:30 am	**Registration Opens** Includes continental breakfast.
8:15 am	**Welcoming Remarks**
8:30 am 1.00 hr	**A View of the Sector** This panel presents an overview of the latest in policy and regulation from the US Government affecting the nonprofit sector, including Congress, the IRS, the Courts, and the States. As in years past, there is a lot happening—affirmative action and race based grantmaking, campus politics and free speech, political campaign intervention and the limits of nonprofit advocacy, health care and community benefit, Congress's power to tax wealth, and much more. This panel aims to help you stay abreast of current developments. Kimberly Eney, Loeb & Loeb LLP - San Francisco, CA Alexander L. Reid, Baker & Hostetler LLP - Washington, DC
9:30 am 1.00 hr	**Exclusivity in Philanthropy: Where Does *Harvard/UNC* Leave Philanthropy?** This presentation covers how the Supreme Court's June 2023 decision eliminating affirmative action in higher education will likely impact how courts assess grants, investments, and contracts designed for historically underrepresented groups under federal and state anti-discrimination laws. Discuss significant lawsuits that have been filed in the wake of the Supreme Court's decision, as well as practical ways to mitigate risk under anti-discrimination laws without impeding programs and strategies in philanthropy. Moderator: Emily Cuneo DeSmedt, Morgan, Lewis & Bockius LLP - Princeton, NJ Panelists: Nishka Chandrasoma, Ford Foundation - New York, NY Lorelle L. Espinosa, Alfred P. Sloan Foundation - New York, NY Lisa Montez, Builders Vision - Chicago, IL
10:30 am	**20-Minute Break**

CONCURRENT TRACKS

TRACK A: Exploring the Contours of Charitability
Presiding Officer:
Megan E. Bell, Morgan, Lewis & Bockius LLP - New York, NY

10:50 am 0.75 hr	**Exploring the Contours of Charitability: Economic Development, Community Revitalization, Poverty Alleviation** As philanthropy seeks to help solve complex interrelated global problems such as climate change, hunger, income inequality, economic development, and poverty while often collaborating with governments, development financial organizations, for profit entities and non-governmental organizations, how should innovative programs and novel interventions be grounded in traditional bases of charitability? This two-part panel examines means of assessing and articulating charitability in the context of increasingly sophisticated philanthropic strategies. Ann K. Batlle, Morgan, Lewis & Bockius LLP - Washington, DC Stephen M. Clarke, Ernst & Young LLP - Washington, DC Erica L. Guyer, The Rockefeller Foundation - New York, NY Joshua J. Mintz, John D. and Catherine T. MacArthur Foundation - Chicago, IL
11:35 am	**5-Minute Break**
11:40 am 0.75 hr	**Exploring the Contours of Charitability: Scientific Research, Education and the Environment** Ann K. Batlle, Morgan, Lewis & Bockius LLP - Washington, DC Stephen M. Clarke, Ernst & Young LLP - Washington, DC Erica L. Guyer, The Rockefeller Foundation - New York, NY Joshua J. Mintz, John D. and Catherine T. MacArthur Foundation - Chicago, IL
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

TRACK B: Private Philanthropy Structures and Family Offices
Presiding Officer:
Tony Fundaro, Philanthropy Southwest - Dallas, TX

10:50 am 0.75 hr	**Private Philanthropy: Alternative [or Complementary] Structures** While a private foundation may be the most traditional choice for private philanthropy, there are various other structures that may be employed by philanthropists. How do the various private philanthropic structures compare and when might one or more alternatives be used? This panel covers the options and discusses practical examples. Effie Babb, Hillspire, LLC - Menlo Park, CA Maura L. Whelan, Simpson Thacher & Bartlett LLP - New York, NY
11:35 am	**5-Minute Break**
11:40 am 0.75 hr	**Structuring for Efficiency (Compliantly): Sharing, Services, Self-Dealing, and Co-Investing in the Family Office/LLC Context** A discussion of techniques and structures for leveraging the shared resources of a family office while navigating the private foundations excise tax regime, including governance, structuring, and tax issues. Christy E. Brook, Emerson Collective - San Francisco, CA Allison Heimann, Morgan, Lewis & Bockius LLP - New York, NY Lisa Montez, Builders Vision - Chicago, IL
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

MASTER CLASS A: The Complexity of Giving (limited capacity)

10:50 am 1.50 hrs	**MASTER CLASS: The Complexity of Giving: Expenditure Responsibility and the Individual Grant Rules** In this session, participants focus on legal issues that arise when making grants to foreign and non-charitable organizations, as well as to individuals. Highlight when and how to exercise expenditure responsibility, what it requires, as well as the consequences for failing to do so either at the outset or due to a misstep by an ER grant recipient. Also, discuss the rules related to providing grant support to individuals, including the IRS approval process and when such approval may not be required. Jennifer Shipp, Heising-Simons Foundation - Los Altos, CA Caroline Waldner, Morgan, Lewis & Bockius LLP - Washington, DC
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

MASTER CLASS B: Engaging with Related Parties (limited capacity)

10:50 am 1.50 hrs	**MASTER CLASS: Engaging with Related Parties: The Landscape of Excess Benefit Transactions** A discussion of both common and unusual related party transactions, as well as the impact of the excess benefit rules under Section 4958 and how transactions can be managed to address or mitigate the federal tax implications. Diara M. Holmes, Loeb & Loeb LLP - Washington, DC Danika H. Mendrygal, Mendrygal Law, PLLC - Dallas, TX
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

Thursday Afternoon, Feb. 8, 2024

Presiding Officer:
Megan E. Bell, Morgan, Lewis & Bockius LLP - New York, NY

LUNCHEON PRESENTATION

	THANK YOU TO OUR SPONSOR NORTHERN TRUST Foundation & Institutional Advisors
12:55 pm 0.75 hr	**Philanthropy in Sports** Collegiate athletics draw significant attention, and revenues, to many institutions and associated nonprofit organizations. This presentation covers tax and legal considerations around such activity for organizations and donors, including "name, image and likeness" (NIL) structures, licensing/joint ventures, and sponsorships. Justin J. Lowe, Ernst & Young LLP - Washington, DC Mike Perrin, Winstead PC - Houston, TX
1:40 pm	**15-Minute Break**
1:55 pm 1.00 hr	**Regulatory Horizons Interplay: State and Federal Enforcement** Ex-regulators for both the IRS and states attorney general offices provide perspectives on enforcement activity from the "outside," including a discussion on cooperation amongst the states' AGs, and communication between state regulators/the IRS. Are they sharing? How does one's enforcement efforts affect the other? Meghan R. Biss, Caplin & Drysdale, Chartered - Washington, DC Yael Fuchs, Sedreddine & Whoriskey, LLP - Brooklyn, NY Susan K. Staricka, Staricka Law, PLLC - Austin, TX
2:55 pm	**20-Minute Break**

CONCURRENT TRACKS

TRACK C: Election Year Issues
Presiding Officer:
Megan E. Bell, Morgan, Lewis & Bockius LLP - New York, NY

3:15 pm 0.75 hr	**Election Year Issues: Political Engagement and Affiliated Structures** A practical exploration of the rules regarding political engagement across the nonprofit sector, including how to maximize impact through the use of affiliated structures. Debbie Fine, Open Society Foundations - New York, NY Bridget M. Weiss, Arnold & Porter Kaye Scholer LLP - Washington, DC
4:00 pm	**5-Minute Break**

4:05 pm 0.75 hr	**Federal Election Law and Ethics Rules: What Charities Need to Know** Most charities know their 501(c)(3) tax status permits them to educate voters on a nonpartisan basis, and engage in limited legislative lobbying, while prohibiting intervention in candidate campaigns for public office entirely. But several activities permitted by federal tax law for charities are nonetheless regulated by federal election law, adding another layer of legal compliance. Charities also need to follow government ethics rules when working with elected and other federal public officials. Gain insight on these intersecting legal frameworks. Rosemary E. Fei, Adler & Colvin - San Francisco, CA Ezra Reese, Elias Law Group LLP - Washington, DC
4:50 pm	**10-Minute Break**

TRACK D: Governance
Presiding Officer:
Karey Dubiel Dye, Goldman Sachs Philanthropy Fund - Houston, TX

3:15 pm 0.75 hr	**Governance: Essential Organizational Policies and Protections** A strong set of policies serve as a key building block in good governance and organizational effectiveness. This session offers an overview and discussion of a number of standard organizational policies to better understand not only the nature of the policies and their format but also what they are designed to accomplish and how they interact with insurance and tie into an overall compliance program. Darren B. Moore, Bourland, Wall & Wenzel, P.C. - Fort Worth, TX Jeffrey E. Sher, Fizer Beck - Houston, TX
4:00 pm	**5-Minute Break**
4:05 pm 0.75 hr	**Governance: Managing an Internal Investigation** Explore the anatomy of an internal investigation from a governance perspective— from the allegations, through the first moves and the next steps, to the investigation’s findings and aftermath. An internal investigation can be a complex, fast moving and highly fraught legal experience not for the faint of heart and understanding the role of the board is imperative to a successful outcome. The scope (and costs) can easily get out of hand, and there are many landmines hidden throughout the process. Discuss the following with a special focus on the governance considerations: Who do you tell and when (the executive team, the executive committee, the board, key donors or other stakeholders)? What is the role of each stakeholder and how do you navigate disagreements? Do the allegations warrant a full-fledged investigation or would that be an over-reaction? Do you bring in outside counsel or other third parties (forensic accountants or other experts) and when? What is the proper scope of an investigation? What are the legal and privilege issues involved, in particular when interviewing employees and former employees? What are the communications/PR concerns? What do you do with the findings? Do you do a written report? What should come out of the investigation (employment actions, governance reforms)? Do you self-report to the IRS or other regulators? What do you make public and when? And what is the role of the board (or a board or special committee) in navigating each of these questions? James P. Joseph, Arnold & Porter Kaye Scholer LLP - Washington, DC Katherine Karl, Caplin & Drysdale, Chartered - Washington, DC
4:50 pm	**10-Minute Break**

MASTER CLASS C: UPMIFA and Endowments (limited capacity)

3:15 pm 1.50 hrs	**MASTER CLASS: UPMIFA and Endowments** This panel addresses the legal framework for prudence (in investing and spending) under UPMIFA, the types of endowment spending models commonly in use at large institutions, the crafting of endowment spending policies, and key issues involved in institutions' compliance with donor-imposed restrictions on endowment funds. Jamie S. Cantara, The Univerity of Texas at Austin - Austin, TX John Sare, Patterson Belknap Webb & Tyler LLP - New York, NY
4:50 pm	**10-Minute Break**

MASTER CLASS D: Content Strategy and Nonprofits (limited capacity)

3:15 pm 1.50 hrs	**MASTER CLASS: Content Strategy and Nonprofits** A conversation around how brands, organizations and nonprofits can best leverage digital platforms (including social media) to raise funds and awareness, how to spot legal issues, such as trademark, copyright, influencer disclosures, endorsements, publicity rights, music rights, CCVs, contests, matches and more, and best practices to follow when nonprofits have unique legal considerations. Sara Hall, ALSAC/St. Jude Children's Research Hospital - Memphis, TN Natalie Malone, ALSAC/St. Jude Children's Research Hospital - Memphis, TN Nazli Tamer, BerlinRosen - Chicago, IL
4:50 pm	**10-Minute Break**

5:00 pm 0.75 hr	**The Role of the IRS and Treasury in the Tax-Exempt Sector** While the EO sector is a mere asterisk in the IRS's budget, its ~1.5 million organizations gross close to $2 TRILLION in revenues annually. In light of the IRS's current reorganizing, this discussion considers potential regulatory role(s) with respect to overseeing both charities and other 501(c) entities. Moderator: Eve Borenstein, Harmon, Curran, Spielberg & Eisenberg, Washington, DC - Eve Rose Borenstein, LLC, Minneapolis, MN Panelist: Meghan R. Biss, Caplin & Drysdale, Chartered - Washington, DC

5:45 pm	**Adjourn to Networking Reception (5:45 p.m. - 6:45 p.m.)** Join us for a networking opportunity with faculty and colleagues. **Thank You to Our Sponsor** Frost BANKING INVESTMENTS INSURANCE

Friday Morning, Feb. 9, 2024

Presiding Officer:

Joyce Hellums, Ernst & Young LLP - Austin, TX

7:30 am	**Conference Room Opens** Includes continental breakfast.
8:15 am 1.00 hr ethics	**Protecting Your Nonprofit Client: Opinions, Privilege, and Return Positions** A practical overview of the legal requirements of tax opinions, the attorney-client privilege in tax situations, and the various types of tax advice on return positions. Discuss the myriad of penalties on organizations and tax return preparers. Hear real-world examples of problems that non-profit organizations face and best practices to solve those problems. David Gair, Locke Lord LLP - Dallas, TX
9:15 am	**15-Minute Break**
9:30 am 1.00 hr	**Guardians of the Galaxy: General Counsel's Challenges in Managing Risk and Protecting a Nonprofit's Brand** Managing risk can seem fraught with issues from deciding how frequently to conduct enterprise-wide assessments to securing buy-in from business leaders. Discuss the pros and cons of external versus internal risk assessments, tools for managing risk, and practical examples of successful and unsuccessful approaches. Moderator: Megan E. Bell, Morgan, Lewis & Bockius LLP - New York, NY Panelists: Sasha Abrams, Gordon and Betty Moore Foundation - Palo Alto, CA Emily Fan, The David and Lucile Packard Foundation - Los Altos, CA Christie Yang, Walton Family Foundation - Washington, DC
10:30 am	**20-Minute Break**

CONCURRENT TRACKS

TRACK E: Revenue Generating Activities
Presiding Officer:
Joyce Hellums, Ernst & Young LLP - Austin, TX

10:50 am 0.75 hr	**Revenue Generating Activities: Financing Structures and Mechanisms, Tax Credits, and More** The Inflation Reduction Act (IRA) expanded clean energy tax credits, making them available (and refundable) for tax-exempt and government entities and incorporating incentives intended to steer benefits toward low-income communities. Explore how the IRA's credits and incentives can create opportunities for financing charitable activity and traps for the unwary. Dahlia B. Doumar, Patterson Belknap Webb & Tyler LLP - New York, NY David A. Levitt, Adler & Colvin - San Francisco, CA Jorge Lopez, John D. and Catherine T. MacArthur Foundation - Chicago, IL Ruth M. Madrigal, KPMG LLP - Washington, DC
11:35 am	**5-Minute Break**

11:40 am 0.75 hr	**Revenue Generating Activities: Investing as a Charitable Activity, Collaborations and Joint Ventures** Gain insight into program-related investments, mission-related investments, and issues to consider when nonprofit organizations and for-profit organizations work together in various ways. Dahlia B. Doumar, Patterson Belknap Webb & Tyler LLP - New York, NY David A. Levitt, Adler & Colvin - San Francisco, CA Jorge Lopez, John D. and Catherine T. MacArthur Foundation - Chicago, IL Ruth M. Madrigal, KPMG LLP - Washington, DC
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

TRACK F: "The Middle Zone" / Cyber & Data Protection
Presiding Officer:
Norman E. Nabhan, Graystone Consulting - Houston, TX

10:50 am 0.75 hr	**The Middle Zone: DAFs, Supporting Organizations, Private Operating Foundations and Conduit Foundations** Gain insight on charitable structures that purport to offer the best of both of the private foundation and public charity worlds. Topics include classification issues, recipes for success, and traps for the unwary. Norah L. Jones, C3 Legal - Chicago, IL Andrew Schulz, Adler & Colvin - Washington, DC
11:35 am	**5-Minute Break**
11:40 am 0.75 hr	**Cybersecurity and Data Protection Issues Affecting Non-Profits** Many nonprofits collect and store sensitive personal information that is protected by law from identity theft. When there is a breach of the security protecting this sensitive personal information, that poses a risk for the individuals whose data was disclosed, and for the nonprofit that will now potentially be subject to liability for the data breach. This presentation features takeaways for non-profits about how to - at a minimum - assess the risks of a data security breach, and protect its data from unauthorized disclosure. Elizabeth Rogers, Michael Best & Friedrich LLP - Austin, TX
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

MASTER CLASS E: Intellectual Property (limited capacity)

10:50 am 1.50 hrs	**MASTER CLASS: Navigating Intellectual Property Issues for Nonprofits** An overview of different types of intellectual property, and discussion regarding common issues faced by nonprofits in managing copyright and trademark issues, including private benefit, ownership, rights to use, and public distribution. Explore case studies to identify common pitfalls and practical solutions. Gene Park, Morgan, Lewis & Bockius LLP - San Francisco, CA Susan Vignola, Patterson Belknap Webb & Tyler LLP - New York, NY

12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

MASTER CLASS F: Anatomy of an Impact Investment (limited capacity)

10:50 am 1.50 hrs	**MASTER CLASS: Anatomy of an Impact Investment from the Investor Perspective** This session approaches impact investments from the 'other side,' examining the legal issues that matter equally to return-driven investors. Delve into the legal structures and key terms of common forms of equity and debt investments to understand the issues and considerations that shape financial returns but also have significant implications for achieving impact. Miranda Lindl O'Connell, Builders Vision - San Francisco, CA Kevin E. Roe, Simpson Thacher & Bartlett LLP - New York, NY
12:25 pm	**Pick Up Lunch (30-Minutes)** Included in registration.

Friday Afternoon, Feb. 9, 2024

Presiding Officer:
Lucille DiDomenico, DiDomenico Group - Dallas, TX

LUNCHEON PRESENTATION

12:55 pm 0.75 hr	**Community Development from the Frontlines** From cultural incubators for artists to community-anchored developments linking preschool with affordable housing, hear from veteran community developments professionals about innovations happening in their field. In this interactive panel, learn about strategies being deployed on the front lines to support the development of affordable and equitable communities, in an increasingly complex and dynamic landscape. Moderator: Heather K. Way, The University of Texas School of Law - Austin, TX Panelists: Theresa Alvarez, Austin Economic Development Corporation (501c3 and LGC) - Austin, TX Rachel Stone, Guadalupe Neighborhood Dev Corp (501c3) - Austin, TX

1:40 pm	**20-Minute Break**

CONCURRENT TRACKS

TRACK G: Issues in Fundraising / Planning Vehicles
Presiding Officer:
Jody Blazek, Blazek & Vetterling - Houston, TX

2:00 pm 0.75 hr	**Advanced Issues in Fundraising** Since the end of the pandemic, charities are continuing to pursue various fundraising opportunities in the constant search for sustainable, unrestricted revenue. Through fundraising opportunities like events, commercial co-venture, and fundraising platforms, charities continue to struggle to maintain revenue streams. As consumer preference and regulatory environments change, charities will need to continue to adapt to changing circumstances, as well as adapt to the introduction of newer models of raising revenue. Jonathan S. Blum, Holland & Knight LLP - Dallas, TX Kay Walther, Blazek & Vetterling - Houston, TX
2:45 pm	**5-Minute Break**
2:50 pm 0.75 hr	**Planning Vehicles and Trusts (CRTs, Annuities, etc.)** For a nonprofit, “Cash is (often) King”: A donor receives a charitable deduction for an outright cash gift and the nonprofit can immediately put it to work to fund a building, a program or a project. However, a donor’s long-term objectives to support a nonprofit might be better accomplished in structuring a deferred gift, such as a charitable gift annuity or a charitable remainder trust. This session examines a variety of gifts that can fund planned vehicles and fulfill a donor’s charitable intent as well as personal financial goals. Katrina M. Pipasts, Northern Trust - Chicago, IL
3:35 pm	**Adjourn**

TRACK H: Direct Charitable Activities / Employment Trends
Presiding Officer:
Lucille DiDomenico, DiDomenico Group - Dallas, TX

2:00 pm 0.75 hr	**Direct Charitable Activities, Recoverable Grants, and Funding Intermediaries and Fiscal Sponsors** Who does regular program grants anymore? In an era when philanthropy is changing rapidly, the needs of philanthropists and the emerging fields they fund are shifting equally as fast. Direct charitable activities and recoverable grants are increasingly popular tools for achieving funders’ charitable goals—learn how foundations can use them effectively. Similarly, deployment of funds to the field through fiscal sponsors and intermediaries is on the rise—what are the legal and practical considerations for using these funding mechanisms? Vanessa Goodwin, Arnold Ventures LLC - Houston, TX Kristen M. Gurdin, Wellspring Philanthropic Fund, Inc. - New York, NY
2:45 pm	**5-Minute Break**
2:50 pm 0.75 hr	**Employment Trends** Explore many of the employment issues facing non-profit organizations, including employee compensation and competition, unionization, and the role of AI tools. Steven H. Garrett, Boulette Golden & Marin L.L.P. - Austin, TX
3:35 pm	**Adjourn**

MASTER CLASS G: Accounting for Non-Profits (limited capacity)

2:00 pm 1.50 hrs	**MASTER CLASS: Accounting for Non-Profits: Understanding the Balance Sheet and Financial Statements (and the Form 990 Connection)** Hear components of a Non-Profit Organization’s financial statements, including the footnotes, and how information tells the Non-Profit Organization’s financial story. Additionally, learn how to identify differences between the financial statements and the Form 990. Neely D. Duncan, FORVIS - Dallas, TX Ruth Snell, Armanino, LLP - Austin, TX
3:35 pm	**Adjourn**

MASTER CLASS H: Measuring Success in Grantmaking (limited capacity)

2:00 pm 1.50 hrs	**MASTER CLASS: Measuring Success in Grantmaking: Reporting, Data and Other Tools** Hear an overview of why measuring outcomes matters from a legal perspective, as it relates to both grantmaking and impact investing, and explore a real-world example of how this plays out in practice using the Michael and Susan Dell Foundation’s impact management system that is used to monitor the effectiveness of the Foundation’s global investment portfolio. Gain a high-level understanding of why and how to measure outcomes and to facilitate insights and ideas for practitioners engaged in similar work. Semonti Basu, Michael & Susan Dell Foundation - Austin, TX Franziska Hertel, Ropes & Gray LLP - Boston, MA
3:35 pm	**Adjourn**