

42nd Annual Nonprofit Organizations Institute

January 23-24, 2025 • Four Seasons Hotel • Austin, TX

Thursday Morning, Jan. 23, 2025

Presiding Officer:

Tony Fundaro, Philanthropy Southwest - Dallas, TX

7:30 am	<p>Registration Opens</p> <p>Includes continental breakfast.</p>
8:20 am	<p>Welcoming Remarks</p>
8:30 am 1.00 hr	<p>View of the Nonprofit Sector</p> <p>There is much to discuss. The 2017 Tax Cuts and Jobs Act is about to expire, and extending it costs \$4.6 trillion, but the federal debt already exceeds \$35 trillion, so Congress is thirsty for cash. Meanwhile, Treasury and the IRS are rewriting the way in which donors, investment advisors, and sponsoring organizations work together on donor advised funds. For its part, the judiciary is busily reinterpreting statutes without deference to executive agency authority to answer fundamental questions like how much unrelated activity a social welfare organization may undertake before losing its tax-exempt status.</p> <p>Kimberly Eney, Loeb & Loeb LLP - Washington, DC Alexander L. Reid, Baker & Hostetler LLP - Washington, DC</p>
9:30 am 1.00 hr	<p>Demystifying the IRS, Treasury, and the Tax Legislative Process: Everything You Want to Know (But Were Afraid to Ask)</p> <p>This session breaks down the key players and their roles at the IRS and Treasury, explores the issues we anticipate in 2025, and offers practical guidance on how charities can effectively impact the federal tax rules governing their operation. Whether you're new to navigating these federal agencies or looking to deepen your understanding, this discussion should illuminate the critical institutions that regulate our sector.</p> <p>Sasha Abrams, Gordon and Betty Moore Foundation - Palo Alto, CA Ruth M. Madrigal, KPMG LLP - Washington, DC</p>
10:30 am	<p>20-Minute Break</p>

CONCURRENT TRACKS

TRACK A: Governance and Fiduciary Duties

Presiding Officers:

Mallory Driggers, Philanthropy Southwest - Dallas, TX

Eric Wynn, Philanthropy Southwest - Dallas, TX

10:50 am 0.75 hr	<p>Governance, Board Issues and General Fiduciary Duties</p> <p>Explore important legal requirements and best practices for the governance of nonprofit organizations, including key organizational documents and policies, core fiduciary duties, and applicable state and federal tax laws.</p> <p>Andrew C. Clearfield, Fizer Beck - Houston, TX Thomas C. Schroeder, Davis Wright Tremaine LLP - Seattle, WA</p>
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11:35 am	5-Minute Break
11:40 am 0.75 hr	<p>Negotiating Investments, Documenting Prudence - Legal Issues for Impact and Other Investments</p> <p>Examine some practical approaches to core legal issues charitable organizations face in both impact and other investments, addressing how legal teams can support the organization’s economic and impact goals through effective diligence and negotiation with the investment target. Also, hear discussion on the applicability of UPMIFA’s prudence standard to endowment, mission-related, and program-related investments, and the critical role of effective investment policies and procedures.</p> <p>Brittany Cvetanovich, The Ohio State University - Columbus, OH Alison Looman, Ford Foundation - New York, NY</p>
12:25 pm	<p>Pick Up Lunch (30-Minutes)</p> <p>Included in registration.</p>

TRACK B: Structures for Impact

Presiding Officer:

Tony Fundaro, Philanthropy Southwest - Dallas, TX

10:50 am 0.75 hr	<p>Corporate Vehicles and Structures for Impact</p> <p>Given that philanthropic capital represents less than .25% of the capital markets, if we are going to make any positive progress in the next two decades on the most pressing issues - from climate change to health care to inequality - then corporate actors will need to become vested in solutions, specifically by employing new corporate forms (e.g. Vital Farms PBC/Generate PBC), side car public charities (e.g. Carbon Mapper/Flexport.org) and perpetual purpose trusts (e.g. Patagonia, Meta). Review each of these new forms and discuss how and when they can be used most effectively.</p> <p>Joel Beck-Coon, Chan Zuckerberg Initiative - Palo Alto, CA Jorge Lopez, Builders Vision - Chicago, IL Susan H. Mac Cormac, Morrison & Foerster LLP - San Francisco, CA Casey Oetgen, Morgan, Lewis & Bockius LLP - New York, NY</p>
11:35 am	5-Minute Break
11:40 am 0.75 hr	<p>Hybrid/Tandem Structuring and Impact Financing</p> <p>There are a myriad of ways that non-profits and for-profits can operate collaboratively together - through ownership, contractual relationships and governance. Panelists review the various forms, give examples and provide an analysis of what has worked and what has not as these structures have been evolving over the past 25 years, increasingly (although not always effectively) entering the mainstream. Explore use of hybrid/tandem structures to aggregate capital, deploy capital and operate assets - and hear advice on pitfalls to avoid when structuring and drafting.</p> <p>Joel Beck-Coon, Chan Zuckerberg Initiative - Palo Alto, CA Jorge Lopez, Builders Vision - Chicago, IL Susan H. Mac Cormac, Morrison & Foerster LLP - San Francisco, CA Casey Oetgen, Morgan, Lewis & Bockius LLP - New York, NY</p>
12:25 pm	<p>Pick Up Lunch (30-Minutes)</p> <p>Included in registration.</p>

MASTER CLASS A: Understanding Your Governing Documents and Organizational Policies (limited capacity)

10:50 am
1.50 hrs

Understanding Your Governing Documents and Organizational Policies: What They Say, What They Don't, and What They Should

An overview of the essentials for governing documents and organizational policies before exploring emerging trends in nonprofit governance and policies, focusing on how an organization might use internal and external policies and documents to advance mission; position itself on and pursue important public and social issues or events (or not), whether equity, immigration, environmental advocacy, education reform, or other issues of social concern; encourage flexibility and nimbleness; and further and enhance compliance culture.

Darren B. Moore, Bourland, Wall & Wenzel, P.C. - Fort Worth, TX
Susan Vignola, Patterson Belknap Webb & Tyler LLP - New York, NY

12:25 pm

Pick Up Lunch (30-Minutes)

Included in registration.

MASTER CLASS B: Advanced Issues in Self-Dealing (limited capacity)

10:50 am
1.50 hrs

Advanced Issues in Self-Dealing

Private foundations are subject to strict rules governing their activities. In particular, the rules regarding self-dealing are complex and failure to comply can lead to steep penalties for the self-dealer and foundation managers. Discuss more complex self-dealing scenarios beyond the run-of-the-mill compensation and leasing scenarios, work through hypothetical scenarios, provide practical advice for foundations on planning, and discuss how these issues may be viewed under an IRS audit.

Effie Babb, Hillspire, LLC - Menlo Park, CA
Meghan R. Biss, Loeb & Loeb LLP - Washington, DC

12:25 pm

Pick Up Lunch (30-Minutes)

Included in registration.

Thursday Afternoon, Jan. 23, 2025**Presiding Officer:**

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

LUNCHEON PRESENTATION

12:55 pm
0.75 hr

Disaster Relief for Everyone: Utilization of Collaboration

The panelists share stories of collaborative successes and failures in facilitating disaster relief, and address collaboration as between philanthropy (with an emphasis on funders) and the public and private sectors.

Moderator:

Danika H. Mendrygal, Mendrygal Law, PLLC - Dallas, TX

Panelists:

Chris Bugbee, OneStar Foundation - Austin, TX

Chris Hensman, Housing Partnership Network - Houston, TX

1:40 pm	15-Minute Break
1:55 pm 1.00 hr	<p>GC Roundtable: Are You Ready?</p> <p>Explore in-house counsel’s role in diagnosing and improving organizational readiness. Every organization is likely to face challenges and change—from organizational leadership transitions, to cybersecurity attacks and HR scandals—what capacities are needed to foster resilient institutions and what is legal’s role?</p> <p>Emily Fan, The David and Lucile Packard Foundation - Los Altos, CA Kristen M. Gurdin, Wellspring Philanthropic Fund, Inc. - New York, NY Jennifer Shipp, Heising-Simons Foundation - Los Altos, CA Ellen D. Willmott, Doctors Without Borders USA - New York, NY</p>
2:55 pm	20-Minute Break

CONCURRENT TRACKS

TRACK C: DAFs / Direct Charitable Activities

Presiding Officer:

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

3:15 pm 0.75 hr	<p>Making Sense of the Donor Advised Fund Regulatory Landscape</p> <p>Discuss the aspects of the proposed donor advised fund regulations issued by the Treasury Department in 2023 that received the most attention from the sector as well as linkages between the proposed regulations and perceptions of donor advised funds among legislators, regulators, and members of the public.</p> <p>Carrie Trowbridge, New York Community Trust - New York, NY Caroline Waldner, Morgan, Lewis & Bockius LLP - Washington, DC</p>
4:00 pm	5-Minute Break
4:05 pm 0.75 hr	<p>Aligning Structure to Strategy: Direct Charitable Activities, Recoverable Grants, & Funding Intermediaries</p> <p>Long gone are the days when foundations simply make grants to public charities. For many, program teams collaborate with grantees on the ground, external advisors, and a diverse set of funders to co-develop projects, establish coalitions, flex the boundaries of traditional grants, and pivot strategy in real time. Modern foundations are funders <i>and</i> doers—and require flexible tools to match. This panel highlights the legal and practical considerations of meeting program teams where they are and supporting legal structures that follow and enhance strategy.</p> <p>Corbin Morris, The Walton Family Foundation - Washington, DC Maura L. Whelan, Simpson Thacher & Bartlett LLP - New York, NY</p>
4:50 pm	10-Minute Break

TRACK D: Private Benefit / Compensation

Presiding Officer:

Lucille DiDomenico, DiDomenico Group - Dallas, TX

3:15 pm 0.75 hr	<p>Testing Boundaries: Examining the Illegality, Public Policy and Private Benefit Doctrines</p> <p>Hear a brief discussion of the statutory basis, seminal court cases, and IRS guidance in areas such as civil disobedience/protest and discrimination. Examine recent applications of these authorities in some issue areas where boundaries are being tested and new precedents are in the making—for example, medical cannabis-related laws and rulings, questions around funding travel for abortion care in a post-<i>Dobbs</i> landscape, and race-conscious grant-making post-<i>Fearless Foundation</i>. And explore the IRS GLAM disapproving of nonprofit NIL collectives and other recent applications of the private benefit doctrine.</p> <p>Diara M. Holmes, Loeb & Loeb LLP - Washington, DC Damon James, The David and Lucile Packard Foundation - Los Altos, CA</p>
4:00 pm	<p>5-Minute Break</p>
4:05 pm 0.75 hr	<p>Compensation and Benefits: Setting, Paying and Disclosing</p> <p>This session provides tips to tax-exempt organizations for avoiding compensation setting and reporting traps, including Section 4958 excise tax, Form 4960 excise tax, and inaccurate or unnecessary Form 990 disclosures.</p> <p>Stephen M. Clarke, Ernst & Young LLP - Washington, DC James F. Wynn II, Quatt Associates - Washington, DC</p>
4:50 pm	<p>10-Minute Break</p>

MASTER CLASS C Content Strategy and Branding for Nonprofits (limited capacity)

3:15 pm 1.50 hrs	<p>Content Strategy and Branding for Nonprofits</p> <p>Explore the profound shifts happening in the charitable marketing landscape and how you can be better prepared to add value and strengthen the position of your nonprofit’s brand. The rapid advancements in AI technology, new and emerging changes in information consumption habits and personalization have created opportunity and risk. As we all adapt to the changing environment, what should we be looking out for and what can we do?</p> <p>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, an Orchestra Company - Chicago, IL</p>
4:50 pm	<p>10-Minute Break</p>

MASTER CLASS D: Private Foundation Grantmaking (limited capacity)

3:15 pm 1.50 hrs	<p>Private Foundation Grantmaking: Agreements, Compliance, Reporting Tools and Provisions for Impact and Measurement</p> <p>Review key compliance issues that arise in the lifecycle of a private foundation grant and discuss how grant agreements and reporting provisions can support an organization’s compliance effort and impact measurement. Sample agreements and provisions will be shared.</p> <p>Edward T. Chaney, Schell Bray PLLC - Chapel Hill, NC Kristy Bernard Tsadick, The William and Flora Hewlett Foundation - Menlo Park, CA</p>
4:50 pm	<p>10-Minute Break</p>

5:00 pm
1.00 hr ethics

Ethical Issues for Tax Practitioners in Privileged Communications

A practical overview of the ethical issues for tax practitioners related to providing tax advice and being a tax return preparer and consequences for privileged communications. Discuss several case studies for real-world examples of problems that non-profit organizations face and best practices to solve those problems.

David Gair, Troutman Pepper Locke - Dallas, TX

6:00 pm

Adjourn to Networking Reception (6:00 p.m. - 7:00 p.m.)

Join us for a networking opportunity with faculty and colleagues.

Thank You to Our Sponsor



Friday Morning, Jan. 24, 2025

Presiding Officer:

Joyce Hellums, Ernst & Young LLP - Austin, TX

7:30 am

Conference Room Opens

Includes continental breakfast.

8:30 am
1.00 hr

Texas Legislative Update and Navigating the Texas Legislature

With Texas's 89th Regular Legislative Session set to convene on January 14th, 2025, this session covers the state politics, policy, and legislative process to help non-profit leaders understand what to expect and how to navigate the new Texas Legislature. Join James Barragán, a veteran political reporter in Texas's largest non-profit newsroom, and Luis Soberon, a former staffer and advocate at a non-profit to get an insider's perspective on the forces shaping the Texas capitol.

James Barragán, The Texas Tribune - Austin, TX
Luis Soberon, Texas 2036 - Austin, TX

9:30 am
1.00 hr

Recent Developments and Trends on Targeted/Focused Philanthropy

Explore the current legal and regulatory landscape impacting targeted philanthropic efforts, how different organizations are assessing and managing possible risk associated with those efforts, and what tools and opportunities may be out there to continue to advance an organization's ongoing mission.

Martha I. Jimenez, The California Endowment - Los Angeles, CA
Sharon P. Masling, Morgan, Lewis & Bockius LLP - Washington, DC

10:30 am

20-Minute Break

CONCURRENT TRACKS

TRACK E: Mergers and Acquisitions / Bankruptcy**Presiding Officer:****Joyce Hellums**, Ernst & Young LLP - Austin, TX

10:50 am 0.75 hr	Nonprofit Transactions: When to Merge, Acquire or Dissolve As nonprofits adapt to changing circumstances, opportunities for consolidation or acquisition frequently arise. In some cases, these transactions come from a position of strength, whereas some cases end up with a dissolution and transfer of assets. Discuss various considerations and best practices regarding these types of transactions, including structure, key considerations and common issues. Jonathan S. Blum, Holland & Knight LLP - Dallas, TX David A. Levitt, Adler & Colvin - San Francisco, CA
11:35 am	5-Minute Break
11:40 am 0.75 hr	Bankruptcy in the Nonprofit Context A brief primer on bankruptcy, as well as ways in which nonprofit bankruptcies work. Brian T. Cumings, Graves Dougherty Hearon & Moody - Austin, TX Abigail R. Ryan, National Association of Attorneys General - Austin, TX
12:25 pm	Pick Up Lunch (30-Minutes) Included in registration.

TRACK F: Gift Agreements / Fundraising and Co-Venturing**Presiding Officer:****Karey Dubiel Dye**, Goldman Sachs Philanthropy Fund - Houston, TX

10:50 am 0.75 hr	The Anatomy of a Major Gift Agreement Charitable giving is becoming an increasingly complicated negotiation between donors and donees. Explore the key deal terms of significant gift agreements, including the timing of and vehicles for pledge payments, the use and investment of donated funds, naming recognition, morality clauses, ongoing reporting obligations, and more. H. Sujin Kim, The Metropolitan Museum of Art - New York, NY Justin Zaremby, Patterson Belknap Webb & Tyler LLP - New York, NY
11:35 am	5-Minute Break
11:40 am 0.75 hr	The Nexus Between Charities and Consumer Protection: Fundraising and Commercial Co-Venturing The ever-expanding options for charitable fundraising all have consumer protection and charitable trust law implications. From a state regulator perspective, this session addresses what issues may arise under various charitable fundraising scenarios, including commercial co-ventures and fundraising platforms, and what laws may apply. Some examples of enforcement activities in the area of fundraising are provided as illustrations. Brian Gerard Armstrong, California Department of Justice - San Francisco, CA Leslie J. Friedlander, Office of the Oklahoma Attorney General - Oklahoma City, OK

12:25 pm

Pick Up Lunch (30-Minutes)

Included in registration.

MASTER CLASS E: Post-Election Issues for Nonprofits (limited capacity)

10:50 am

1.50 hrs

Elections Have Consequences: Anticipating the New Congress and Administration

Now that we know who will be running the government in DC, what do nonprofits need to think about? How can charitable and philanthropic organizations be prepared for possible changes in regulatory focus and approach?

Rosemary E. Fei, Adler & Colvin - San Francisco, CA
Matthew T. Sanderson, Caplin & Drysdale, Chartered - Washington, DC

12:25 pm

Pick Up Lunch (30-Minutes)

Included in registration.

MASTER CLASS F: Litigation for Tax-Exempts (limited capacity)

10:50 am

1.50 hrs

Litigation for Charities

Discuss considerations and challenges unique to charity litigation: the role of the board and executive management in responding to and managing litigation; counsel's difficult role in representing the organization (not the individual officers and directors), a charity's duty to protect bequests in will contests, insurance policy issues, the role of states' attorneys general; and current priorities of attorney general investigations and lawsuits in Texas.

Yael Fuchs, Loeb & Loeb LLP - New York, NY
Susan K. Staricka, Staricka Law, PLLC - Austin, TX

12:25 pm

Pick Up Lunch (30-Minutes)

Included in registration.

Friday Afternoon, Jan. 24, 2025

Presiding Officer:

Lucille DiDomenico, DiDomenico Group - Dallas, TX

LUNCHEON PRESENTATION

12:55 pm

0.75 hr

Measuring Social Impact

Performance measurement is a key to success for social sector initiatives, yet many lack a credible and systematic approach to evaluation. This session discusses why measurement is challenging, core concepts and practical applications, and an illustrative case study.

Nadine Dechausay, Communities Foundation of Texas - Dallas, TX
Jeff Kutash, Boldly Go Philanthropy - Omaha, NE

1:40 pm

20-Minute Break

CONCURRENT TRACKS

TRACK G: Social Media / Data Security and Privacy

Presiding Officer:

Lucille DiDomenico, DiDomenico Group - Dallas, TX

2:00 pm
0.75 hr

Is Your Social Media Presence Compliant?

Powerful, flexible, and efficient; social media is a critical communication tool for most charities, but managing your social media presence requires knowledge about a complex array of overlapping legal issues. In this fast-paced overview, speakers introduce many of the interlocking legal issues you need to be aware of when managing your organizations social media strategy. Are you compliant with Federal Tax rules governing lobbying and political activity? Do your social media activities generate UBIT? How are you monitoring and managing charitable solicitation and cause marketing campaigns conducted via social media? What can you do to mitigate risks related to copyright infringement, data security, privacy, and even defamation? Speakers spotlight each of these issues and several others to ensure you have a broad understanding of each risk area.

Andrew Schulz, Adler & Colvin - Washington, DC
Bridget M. Weiss, Arnold & Porter Kaye Scholer LLP - Washington, DC

2:45 pm

5-Minute Break

2:50 pm
0.75 hr

Data Privacy and Cyber Liability: What You Don't Know Puts Your Mission at Risk

Non-profits are at greater risk of losing donors after a data breach, because unlike being a victim of a data breach at a for profit company or a government entity - a relationship a consumer has largely based on the consumer's need - a consumer's relationship with a nonprofit is not necessarily need-based. Most organizational leaders still know very little about the risks that arise from the collection and storage of personal information collected from employees, volunteers, clients and donors. Considering this dark and somewhat frightening landscape, what must you know to understand the exposure and fortify your organization against the associated risks? This presentation shares practical takeaways about how to mitigate cybersecurity risk and also explains whether or not your non-profit is subject to the currently effective and pending state consumer data privacy laws.

Elizabeth Rogers, Winstead PC - Austin, TX

3:35 pm

Adjourn

TRACK H: Crisis Management / International Activities

Presiding Officer:

Norman E. Nabhan, Graystone Consulting - Houston, TX

2:00 pm
0.75 hr

It's a Crisis: Who to Call and What to Do

If you are facing a crisis, who do you call? A lawyer? A crisis PR team? Or both? Discuss how to decide who you should turn to when you're facing a significant organizational challenge. Also, talk through how lawyers and PR teams can best partner together as well as the goals, strategies and impact that a successful pairing of legal and PR teams can have for your organization.

Andrew Friedman, BerlinRosen, an Orchestra Company - New York, NY
Katherine Karl, Caplin & Drysdale, Chartered - Washington, DC

2:45 pm

5-Minute Break

2:50 pm
0.75 hr

Beyond the Border: US Charities Planning Foreign Initiatives

Join us for a beginner-level session designed to guide US-based charities through the complexities of international expansion. Explore the critical legal, financial, and operational factors involved in planning and executing foreign initiatives, whether it's funding projects or setting up operations overseas, to help you make a global impact.

John Crawford, Ernst & Young LLP - Chicago, IL
Debbie Fine, Open Society Foundations - New York, NY

3:35 pm

Adjourn

MASTER CLASS G: The Different Flavors of Employment for Nonprofits (limited capacity)

2:00 pm
1.50 hrs

Employment Ins and Outs for Nonprofits

This session covers important topics affecting non-profit employers and workplaces. Hear a dynamic discussion regarding AI in recruitment, unionization, remote work, reasonable accommodations, the Pregnant Workers Fairness Act (PWFA), religion after *Groff v. DeJoy*, organizational restructuring, and the potential long-term implications of *Loper Bright Enterprises v. Raimondo* on employment-related regulations.

Jason Boulette, Boulette Golden & Marin L.L.P. - Austin, TX
Michael Lopez, The Rockefeller Foundation - New York, NY

3:35 pm

Adjourn

MASTER CLASS H: AI from an In-House Perspective (limited capacity)

2:00 pm
1.50 hrs

AI from an In-House Perspective

This session is for anyone who's thinking (or thinks they should be thinking) about responsible use and funding of AI. No expertise or experience required. Two members of a cross-functional working group (one from IT, one from Legal) share what they've learned from a technical, legal, and operational perspective and what they're doing to enable responsible use of AI internally and responsible funding of AI externally. Gain insight into the basics before doing a deeper dive into practical implications and solutions.

Adam Crenshaw, Bill & Melinda Gates Foundation - Seattle, WA
Andrew Morris, Bill & Melinda Gates Foundation - Seattle, WA

3:35 pm

Adjourn