Syllabus
PUBPOL 559S.01; LAW 585

Philanthropy, Voluntarism and Not-For-Profit Law and Management
Sanford School of Public Policy and the School of Law
Duke University

Spring Semester, 2014
Wednesdays, 8:30 a.m. until 11:00 a.m.
(EXCEPT FOR THE LAST CLASS, WHICH WILL BE ON FRIDAY, APRIL 18 IN THE SAME HOURS)

Sanford 003

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This syllabus will guide our proceedings, gently and flexibly. Although I may adjust it as we proceed, I do not anticipate major departures. I will advise you of significant changes, if any, at least a couple of weeks in advance.

BOOKS TO PURCHASE:

Most required readings, except for Fishman/Schwarz, O'Connell, and Collins, will be available on the course Sakai site. The items listed as “Recommended” and “for further reading” are NOT REQUIRED READINGS. I am providing them in order to guide you in exploring any subjects of particular interest to you, even if we do not focus on them in class. They can be located using an internet search engine such as Google; alternatively, if you have trouble locating an article please let Jake Reeder know as we may have copies in the office. As new articles of importance are published during the semester, they will appear on the Sakai site or be circulated in class; please check the Sakai site regularly for announcements regarding additions or changes to the reading assignments. I will also distribute additional clippings or readings every week, not intended to be assignments but to be illustrations that will inform class discussions. I encourage members of the class to communicate with one another and with me via e-mail in between class sessions so as to enrich class discussion and participation. My e-mail address is joel.fleishman@duke.edu. Jake Reeder, my teaching assistant for the class, will be available throughout the semester to answer questions about locating the course materials. Jake can be reached on jake.reeder@duke.edu or at 434-249-0502. If you wish to make an appointment with me, please call Pam Ladd, my assistant, at 613-7376, or email her at pamela.ladd@duke.edu. I am usually available in my office at Duke, Room 239 of the Sanford School on Wednesdays, but, to be sure that I will be there when you wish to see me, it’s better to make an appointment for a specific time with Pam Ladd.

The World Wide Web is a rich source of information concerning philanthropy and nonprofits. In addition to the readings that will occasionally appear on the course Sakai site mentioned above, the site also has a collection of numerous links to websites important in the nonprofit and philanthropic sectors. Please take time to explore these websites throughout the semester.

The Chronicle of Philanthropy will be distributed throughout the semester for you to browse. During class, I will identify and discuss articles of primary importance, especially trends or major events occurring in the nonprofit and philanthropic worlds.
GENERAL RECOMMENDED READINGS (NOT required)

Tom Tierney and Joel Fleishman, Give Smart: Philanthropy that Gets Results, Public Affairs, 2011.
Joe & Carol Reich, Getting To Bartlett Street, February Books, 2012.

FOUNDATION IMPACT RESEARCH GROUP

Students are encouraged, but not required, to attend Foundation Impact Research Group seminars held almost every other Wednesday afternoon at 4:30 p.m. in the Rhodes Conference Room. The purpose of these seminars is to stimulate faculty and student research on strategic choice making of foundations and the measurement of foundation impact on society. The speakers at these seminars are usually the presidents of foundations or major nonprofits. The FIRG dates and speakers are listed throughout the syllabus and will be announced in class.

COURSE OVERVIEW

The scope of this seminar is as broad as the idea of the voluntary society itself, with particular attention to the American version thereof. The central question to be addressed is the extent to which, and how, a large number of people of varying ethnic, racial, religious, and cultural backgrounds, living together in a country, state, or city, governed by
democratically elected officials, can, may or should rely on organized or unorganized voluntary action by citizens to fulfill both their own individual needs and the needs of their respective communities. In the wake of the September 11th challenges to American society, as well as only now beginning to emerge from the most serious downturn in the nation’s economy since the Great Depression of the late 20s and early 30s, the role of the not-for-profit sector in bringing Americans together across the lines that divide us has become all the more important.

To explore those questions, we will examine alternative allocations of responsibility for solving particular problems -- voluntary, not-for-profit, for-profit, joint public/private, publicly encouraged/subsidized, and publicly coerced -- along with examples, reasons, and theories for particular forms of organization. We will probe what it is that motivates donors and volunteers to give money and time, and to assess not only their effectiveness in solving or ameliorating problems but also the comparative praiseworthiness of their respective motives. Private, community and corporate foundations, as well as the tax-exempt organizations to which they and other donors contribute, are part of the inquiry, especially as to their goals, decision rules, governance, and public accountability. We will continuously examine the framework of public policy that embodies public judgments about the desirability of allocating some part of the burden of social problem-solving to voluntary organizations alone or in partnership with public organizations, as well as the tax policies that are crafted to facilitate and encourage such problem-solving policies. We will also examine the laws defining the boundaries between permissible and impermissible action by not-for-profits. Because of the growing demand for accountability of the not-for-profit sector in general, and of foundations in particular, we will focus throughout the course on the extent to which foundations are achieving social impact commensurate with the tax benefits they and their donors are receiving. We will also examine the social utility of perpetuity in foundations as opposed to limited lifetimes for foundations, the latter of which permit a more rapid distribution to society of foundation assets than the usual minimum annual payout by perpetual foundations of 5% of their asset value.

The class will be conducted as a discussion seminar, with so-called Socratic dialogue as the dominant practice. You will be expected to know the central ideas in the required readings and to be prepared to answer questions about them. Class attendance will be recorded and the quality of your participation in class discussion will be noted.

**No laptop computers will be permitted for use in class.** Laptops are distracting and impede the quality of discussion in the seminar, which relies heavily on class attentiveness and discussion. **No looking at your cell phones or iPads permitted in class. They, too, are distracting not only for you but for other students and me!**

The principal reason this course is a seminar rather than a lecture stems from my hope to help enable you to learn better writing through careful analysis of good ideas about public policy. Six weekly papers, of not more than five pages double-spaced, are required, beginning with the second class. As your papers are intended to help you frame the required readings of the week, they must be submitted in time for me to correct them and return them to you at the class in which the readings you write about are discussed. To meet that schedule, each week's papers must be e-mailed to me at joel.fleishman@duke.edu by 4:00 p.m. on the Sunday before class. **NOTE THAT NO PAPER IS DUE ON SUNDAY, FEBRUARY 2. Papers are to be sent only as Word attachments.** I will correct them and return them to you, graded and commented upon, at class the following Wednesday, with detailed comments on grammar, syntax, style, and usage.

For all sessions except as otherwise specified in the syllabus section on each class, I will expect you to use the assigned paper both to synthesize and criticize the main ideas presented in the required readings. As this seminar offers you an opportunity to help you improve your writing, spelling and syntax by learning from the mistakes of others as well as your own, we will often spend the first part of the class sessions for which papers are required in discussing writing transgressions frequently committed, of course without identifying the individual grammatical miscreants.

**In addition, a term paper of approximately 25 pages will take the place of a final examination. It must be e-mailed to me at joel.fleishman@duke.edu on or before Sunday, April 27th no later than 4:00 p.m.** It is my practice to keep clean copies of student papers, so you will be asked to resubmit a corrected version of your paper after I have returned it to you corrected and graded.
Your term paper should present a careful analysis of any significant issue affecting foundations or nonprofits that is of particular interest to you. It could deal with a particular significant achievement of a foundation or a group of foundations working together in bringing about, or trying unsuccessfully to bring about, a major change in public policy, or in pioneering what eventually became widespread practice in an area that affects the public interest. You may also focus on the strategy of a community foundation in dealing with a significant problem within the area of the foundation’s geographical focus. If you choose a particular foundation initiative, your paper should also assess the strengths and weaknesses of the strategies implemented by that foundation or group of foundations for taking the achievement(s) to relevant scale. You should also feel free to write your paper on such issues as the investment policy of foundations, including whether it is beneficial to their purposes to use social investing criteria, program-related investments, and/or mission-related investing. If you choose this topic, it’s imperative that you gather empirical data on the different rates of return that foundations have achieved in comparison with investment policies that do not include social investing criteria. Your paper should also provide as much empirical data on impact as you can obtain with reasonable effort. I will be happy to introduce you to persons at the foundation, foundations or nonprofits about which you are writing who can give you access to such documents or data as you need. Your choice of paper topic is entirely up to you. But, as outlined below, you must obtain my permission before starting any research or writing on the topic.

You may review the case studies which are online at The Center for Strategic Philanthropy and Civil Society’s website (http://cspcs.sanford.duke.edu/) for brief analyses of past foundation initiatives to spark your thinking. Those case studies also appear in Joel Fleishman, Scott Kohler and Steven Schindler, The Casebook for The Foundation, New York: Public Affairs Books, 2007.

Among the relatively recent themes and approaches you might consider are donor experimentation with for-profit entities to carry out their philanthropic endeavors fashioned as social entrepreneurship and alliances between foundations and governments, foundations and business, or foundations and public charities or other foundations to achieve shared objectives. There are good examples of that phenomenon in Mark Tercik’s Nature’s Fortune. (2013).

One of the subjects on which Tony Proscio and I are currently writing a book involves comparing the social advantages and disadvantages of perpetual foundations with limited-life foundations, the latter of which involves the deliberate, gradual giving away of assets and income until no resources are left. To date, he and I have identified about 80 such foundations, which have completed their spend-down or are now on a course of spending-down. A potential area of focus for your term paper, therefore, could be to select one of these foundations and to describe, from your own perspective as well as from that of the foundation, the actual legacy of the spend-down entity. In other words, what was the impact of the foundation on society over the long run—that is what has it left that will endure after it closed its doors and turned off its lights.

‘=If you prefer to write your term paper on some other topic related to this course, feel free to discuss your proposal with me, but you must have my approval before proceeding. Other possibilities include analyzing ongoing proposals for reform in the nonprofit sector, proposing your own reforms that balance the interests of accountability and flexibility or effectiveness, or evaluating the various forecasts of tremendous upcoming intergenerational wealth transfers and the implications for the charitable sector.

IT IS ESSENTIAL THAT YOU THINK ABOUT POSSIBLE TOPICS AS SOON AS POSSIBLE AND CLEAR TOPICS WITH ME BEFORE BEGINNING RESEARCH. FOR YOUR OWN BENEFIT, I NEED TO BE CERTAIN THAT YOU ARE NOT TAKING ON MORE THAN YOU CAN MANAGE AND ARE FRAMING YOUR TOPIC IN A WAY THAT MAKES SENSE IN THE CONTEXT OF THIS SEMINAR. Think about your term paper topic now and plan to start researching it before spring break. That means that you should clear your topic with me no later than March 5th, the last class before spring break.

The weekly papers will be graded on a scale of 1 to 12, with 10 generally equivalent to an A. The grades will be recorded, along with one’s presence or absence in class and the quality of one’s contribution to class discussion. The term paper will also be graded, but on a scale that is in accordance with the grading system of Trinity, the Graduate School, or the professional school in which you are enrolled. Grades on the weekly papers and class participation will together constitute 75 percent of the term grade, and the grade on the term paper will supply the other 25 percent. Please note that, in the past, students have sometimes received grades as high as 12 for exceptional performance on the weekly papers. In prior years, when some students consistently received 11’s and 12’s on their papers, students who received an average grade of 10 on the weekly papers have not necessarily received an A or its equivalent for the course because overall grades for the course are required to be curved.
# Table of Contents

I. WEDNESDAY, JANUARY 15, 2014 -- AN OVERVIEW OF THE COURSE .......................................................... 6

II. WEDNESDAY, JANUARY 22, 2014 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR ........................................... 8


IV. WEDNESDAY, FEBRUARY 5, 2014 – DONOR MOTIVATION AND DONOR INTENT: THE GREAT PHILANTHROPISTS IN THEIR MAKING AND GIVING OF MONEY, AND THE AVERAGE AMERICAN ................................................................. 21

V. WEDNESDAY, FEBRUARY 12, 2014 – INDIVIDUAL GIVERS AND JOINERS: HUMAN AND SOCIAL IMPULSES TO CHARITY, PHILANTHROPY AND VOLUNTEERISM ...................................................... 28

VI. WEDNESDAY, FEBRUARY 19, 2014 – RATIONALES FOR TAX EXEMPTION OF FOUNDATIONS AND VOLUNTARY ORGANIZATIONS; GOVERNMENT EXACTIONS IN EXCHANGE FOR TAX EXEMPTION ................................................................................................................................. 33

VII. WEDNESDAY, FEBRUARY 26, 2014 – THE NITTY GRITTY OF TAX EXEMPTIONS AND DEDUCTIBILITY; EFFECTIVENESS OF TAX POLICY IN INCREASING/DECREASING DONATIONS ................................................................................................................................. 37

VIII. WEDNESDAY, MARCH 5, 2014 – DEFINING THE NOT-FOR-PROFIT SECTOR: SIMILARITIES, DIFFERENCES, FUZZY BOUNDARIES AND COMPARATIVE ADVANTAGES AMONG THE SECTORS .................................................................................................................................. 41

IX. WEDNESDAY, MARCH 19, 2014 – HYBRIDIZATION i: VENTURE PHILANTHROPY, SOCIAL ENTREPRENEURSHIP, MISSION INVESTING AND TRI-SECTORAL SOLUTIONS TO PUBLIC PROBLEMS (PART I) ............................................................................................................................................... 47


XI. WEDNESDAY, APRIL 2, 2014 – STRATEGY AND IMPACT MEASUREMENT ........................................................................................................................................................................................................................................................................... 58

XII. WEDNESDAY, APRIL 9, 2014 – ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS ................................................................................................................................. 62

XIII. FRIDAY, APRIL 18, 2014 – ACCOUNTABILITY: CHOICE-MAKING AND MANAGEMENT IN FOUNDATIONS AND NOT-FOR-PROFIT ORGANIZATIONS ........................................................................................................................................................................................................................................................................... 67
I. WEDNESDAY, JANUARY 15, 2014 -- AN OVERVIEW OF THE COURSE

Study Questions (Topical Issues Recurring Throughout the Course):

1. Should not-for-profit organizations, including foundations, be made more accountable to the public than they are at present, and, if so, why and how? What are the arguments against too great an increase in accountability to government? From what source, if any, do foundations derive their legitimacy in general, as well as in efforts to effect change in public policy in particular?

2. Consider the pros and cons of the charge that foundations, which are substantially unaccountable to the public, disproportionately influence public policy. To what extent should the public encourage or discourage initiatives in policy-related fields by foundations, given their lack of accountability to the public? What are the arguments for and against? Are foundations viewed as more or less legitimate than other kinds of non-for-profit organizations? In this age of increasing lobbying to influence public policies of a variety of kinds by for-profit corporations and individuals of great wealth, does the charge of unaccountability against foundations and nonprofits ring hollow?

3. How effectively and efficiently do not-for-profit organizations, including foundations, perform their responsibilities? How can they or we measure their impact? Can metrics of impact be developed, and, if so, how? Are there ways of increasing the effectiveness of foundations without adversely affecting their freedom to benefit society according to their own views of what constitutes the public interest?

4. Should the minimum private foundation five-percent annual payout requirement be increased, and, if so, to what level? What are the criteria by which one can reasonably calculate what that payout rate should be?

5. Should financial services companies be restricted in creating public charities that compete with community foundations? Why and why not?

6. What are the arguments for and against placing a ceiling on nonprofit endowments? Should universities, foundations, and other endowed entities be permitted to increase their endowment in perpetuity with no limitation on size?

7. What are the relevant standards of propriety for the amount of compensation to be given to not-for-profit executives? What are the appropriate comparison groups for the salaries of large foundation, hospital, and university presidents? When is it appropriate to use for-profit salaries as comparisons? When are such salaries excessive?

8. How is the Internet changing the ways in which charities raise, maintain and deploy money and volunteers? Does the Internet offer better means of improving the accountability to the public of foundations and other not-for-profits?

9. By what decision rule can America decide which social functions should be performed by which sectors—public, for-profit, not-for-profit—either separately or in some combination of two or three?

10. What do we know about the percentage of giving by income group? What might be done to increase giving by the wealthier?

11. What are the pros and cons for extending income tax charitable deductions for non-itemizers?

12. In humanitarian crises, as in Haiti, there have been repeated conflicts between humanitarian organizations and governments. How does one decide on the proper roles of non-governmental organizations in countries governed by reportedly corrupt, inefficient or disabled governments?

Main Questions To Be Discussed During The First Class Session:

1. Why are you interested in taking this course?

2. How does each of you perceive the role of the not-for-profit sector?

3. Why are you interested in learning more about the not-for-profit sector?

4. What kinds of experience have you had in working or volunteering for nonprofit organizations?

Required Reading (89 pages):

- Fishman/Schwarz, 1-45. (45)
- Lee Christie, “Taxes on Big Gifts Slated to Soar,” CNN Money, 12/13/12 (2)
- Ron Lieber, “As the Year Draws to a Close, Deciding How to Slice Your Charitable Pie,” New York Times, 12/7/12 (4)
- David Brooks, “Sam Spade at Starbucks,” New York Times, 4/12/12, (3)
• Nicholas Carnes, "Which Millionaire Are you Voting For?" *New York Times*, 10/12/12, (3)
• Nicholas Carnes, "Our white-collar rules are out of touch with most Americans," *News and Observer*, 10/10/2013 (2)
• Cheryl Loe, “U.S. Foundation Giving Reaches an Estimated $50.9 Billion in 2012,” *Foundation Center*, 10/1/2013 (2)
• Peter Singer, “Good Charity, Bad Charity, *New York Times*, 08/10/2013 (3)
• Peter Buffet, "The Charitable-Industrial Complex," *New York Times*, 07/26/13 (2)
• Phil Buchanan, “Peter Buffett is Right to Call for Philanthropic Change,” *Chronicle of Philanthropy*, 08/05/2013 (7)
• Various, “Responding to Peter Buffett: What Philanthropy Experts Say,” *Chronicle of Philanthropy*, 08/05/2013 (9)

**Recommended Reading:**

• Elizabeth Lopatto, “Wealthier People More Likely Lie or Cheat, Study Says,” *Bloomberg*, 2/28/12 (1)
• “One Thousand Points of ‘Like’,” *The Economist*, 1/7/12, (1)
• “Chicago Aid Group Closes After More than 120 years,” *Associate Press* 1/27/12, (1)
• Tammy Webber, “Hull House Closes Doors After More than 120 Years,” *Associated Press*, 1/27/12, (1)
• “Fundraising Results Overall Stall Mid-Year,” *PRWeb*, 11/13/12, (2)
• Olivier Zunz, “Philanthropy by the Rest of Us,” *New York Times*, 12/22/11, (2)
• Albert Foer, "The President of the American Antitrust Institute and Father of a Literary Brood on the Difficulty of Getting His Advocacy Group off the Ground," *Bloomberg BusinessWeek*, 1/15/12, (1)
• Ellen Barry, “Foreign Funded Nonprofits in Russia Face New Hurdle,” *New York Times*, 7/2/12, (2)
• Ellen Barry, “Russian Legislators Approve Greater Government Control Over the Internet and Nonprofits,” *New York Times*, 7/18/12, (2)
• Emily Gipple and Ben Gose, “How America Gives,” *The Chronicle of Philanthropy*, 8/19/12, (2)
• Nick Bunkley, “Debt Rising, a City Seeks Donations in Michigan,” *New York Times*, 11/19/10, (2)

**For Further Reading**

II. WEDNESDAY, JANUARY 22, 2014 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR


For non-law students, this assignment may be your first encounter with law cases. If so, in reading the cases, focus your attention on: 1) what the plaintiff (the one who brings the suit that led to the case) wants; 2) what the defendant (the one against whom the suit is brought) claims in response to the plaintiff’s demand; 3) what the court decides as between the plaintiff’s and defendant’s claims; and 4) what the court gives as the reason for deciding as it did. Focus on what the court holds—the actual disposition of the case and the remedy the court imposes—and not so much on what the court says almost parenthetically about what it has held. If you have any questions about this, please consult one of the law students in the class or Professor Fleishman.

Study Questions:
1. Against the background of the aspirations of the not-for-profit sector observed in the previous week, we also need to face the fact that the not-for-profit sector has significant recurrent performance shortcomings. How can we best understand the reasons for these shortcomings in order to formulate effective policies and penalties to diminish them?
2. Was it a scandal for the American Red Cross to decide to use for purposes other than victim relief some of the funds donated in the wake of 9/11 to the Liberty Fund?
3. Do recent scandals or abuses by not-for-profit organizations (e.g., Adelphi University, Bishops Estate, Minnesota Public Radio, The Common Fund, and New Era Philanthropy) reveal anything inherent in the nature or structure of the not-for-profit sector, or are such phenomena totally incidental to the nature of the sector?*
4. Does the inherent nature or structure of not-for-profit organizations make abuses more or less likely?
5. Are the scandals the result of "human nature" (i.e., particular individual's inordinate desire for gain or personal power in any sector)? Are there organizational or governance aspects of the not-for-profit sector, which make that sector especially vulnerable to the schemes of such individuals?
6. Who is responsible for preventing scandals and abuses in the not-for-profit sector?
7. What are the relevant comparisons in determining whether compensation paid to executives of not-for-profit organizations is excessive? What reasonable limits, if any, should exist for such compensation?
8. Can regulatory or legislative frameworks prevent scandals and abuses without undermining the desirable autonomy of the not-for-profit sector? Would any such frameworks be desirable?
9. In the absence of heavy-handed regulation, how can not-for-profit organizations be kept accountable? To whom should they be accountable?
10. What have the courts held to be the differing standards of directors’ responsibility?
11. By what criteria should foundation expenditures be measured so as to ensure some reasonable accountability to the law and best principles of stewardship?
12. What legal safeguards, if any, should be enacted to protect the not-for-profit sector from being abused for terrorist or improper political purposes?
13. Is it a “scandal” for foundations, universities and art museums to allow their endowments to grow without limits?*

* Use the Internet to find as many instances of not-for-profit improprieties as you can. Start with Lexis-Nexis.

Required Readings (118 pages):
- Fishman/Schwarz, pp. 129-158; 163-184, 190-196, 232-237 (64)
- Suzanne Perry, “Lack of Serious Oversight of Charities Undermines Public Trust,” The Chronicle of Philanthropy, 11/1/12, (2)
- Linda Lampkin, “High pay for Nonprofit Execs? Analysis of 100,000 salaries,” Blue Avocado, 6/4/12, (3)
- Natasha Singer, " In Utah, a Local Hero Accused," New York Times, 06/15/2013 (13)
- “Above the Law: America's Worst Charities,” Special to CNN, 06/13/2013 (8)

**Recommended Readings:**

- Editorial, "When those helping the needy seem greedy," News and Observer, 02/16/2013
- Josh Shaffer, "Goodwill husband-wife team earns nearly $800,000," News and Observer, 02/09/2013
- John Leland, "After ugly Public Spat, Elite Arts Club Votes to Banish Its Ex-President," New York Times, 2/12/12, (1)
- "Earthly Concerns," The Economist, 8/18/12, (13)
- "UK Board to Probe Aggressive Street Fundraising," The Chronicle of Philanthropy, 6/26/12, (1)
- Reed Abelson and Julie Creswell, "Hospital Chain Inquiry Cited Unnecessary Cardiac Work," New York Times, 8/6/12, (8)
- Bill Batt, "Comment on Your Book TV Interview," 01/20/07, (2)
- Brett Blackledge and David Caruso, "Some 9/11 Charities Failed Miserably," Associated Press, 8/26/11, (2)
- Rick Cohen, "Decline and Fall of the Vanguard Foundation," Blue Avocado, 08/03/10, (6).
- "Tracking the Disaster Relief Charities," Forbes, 10/29/01, 64.
- Lena H. Sun, "Red Cross To Give All Funds to Victims: Contrite Charity Changes Course on September 11 Donations," Washington Post, 11/15/01, A1.
- Nanette Byrne, et. al., "Too Big a Helping Hand?" Business Week, 10/29/01, 58-60.

**For Further Reading**

**Disaster Response**

- Stephanie Strom, "Red Cross in New Dispute Over Disaster Relief Funds," New York Times, 6/5/08, pp.2.

**September 11 Response**

- Emily Thornton, "The Sorry and the Purse Strings," Business Week, 1/21/02.
- Harvy Lipman, "71% of Americans Trust September 11 Charities," Chronicle of Philanthropy, 8/22/02, 75-85.
- Katharine Q. Seelye and Diana B. Henriques, "Red Cross President Quits, Saying That the Board Had Left Her No Choice," New York Times, 10/27/01, B9.
- "Tracking the Disaster Relief Charities," Forbes, 10/29/01, 64.
- Lena H. Sun, "Red Cross To Give All Funds to Victims: Contrite Charity Changes Course on September 11 Donations," Washington Post, 11/15/01, A1.
• David R. Jones, “Philanthropy and 9/11: How Did We Do?” NCRP Quarterly, Fall 2002.

Hurricane Katrina Response:
• David Crary, “Red Cross Under Fire; President Steps Down,” Raleigh News and Observer, 12/14/2005, 5A

Improper Private Inurement
Public Officials Direction of Public Funds to Activities From Which They Benefit
• Diane Knich, “Schools Act as Money Funnels,” Charleston Post & Courier, 6/1/08.

James Beard Foundation

The Bishop’s Estate

United Way
• “United Way Official Pleads Guilty in Theft,” News and Observer, 2/7/03, 3A.
• John Murawski, “Former United Way Chief Gets 7 Years in Jail; Sentence Praised by Charities,” Chronicle of Philanthropy, 7/13/95, 37.

Adelphi University

Nature Conservancy
Other Cases:

- Erin Jordan, “Muscatine’s Stanley Clan Clashes on Fortune’s Use,” *Des Moines Register and Tribune*, 9/30/07.

Payment to Trustees


Excessive Compensation and Benefits Packages

**General:**

• Staff, “CEO’s Profit from Nonprofits,” Charlotte Observer, 12/20/09.

Cases:
• Stephanie Strom, ”Turmoil Hits Charity Fund Over Its Handling of Money,” New York Times, 2/14/04.
• "At Least Their Environments Are Okay," Forbes, 5/28/01, 30.
• Tom Knudson, "Conservation giants grow huge, rich," Raleigh News and Observer, 5/27/01, 1A, 12A.
• Eric Nadler, “Irvine Foundation’s Downturn,” San Jose Mercury News, 4/26/03.
• Steve Myers, “Director Quits During Probe,” News & Observer, 5/27/00, 3B.

Excessive Overhead

Fraud on the Public
• David O'Reilly, “Embezzlement Is Widespread,” Raleigh News and Observer, 1/6/2007, 18A
• “Tearful Baptist Leader is Given 5½ Year Term in Graft Case,” New York Times, 4/1/99.
• Richard C. Morais, "Charity Fraudsters," Forbes, 6/22/07.

Hale House
• Terry Pristin, "Former Head of Harlem Charity Pleads Guilty to Theft," New York Times, 7/4/03, A13
• Terry Pristin, "Facing Scrutiny, President of Hale House Will Resign," New York Times, B3

Baptist Foundation of Arizona

Marine Toys for Tots Foundation

National Capital United Way

Other Cases:
- Staff, "S.F. Charity Official's Spending Examined," Chronicle of Philanthropy, 7/13/00, 52.
- Pablo Eisenberg, "Government Must Move Quickly to Aid the Smithsonian," Chronicle of Philanthropy, 11/15/07, pp.4

Not-for-Profit Investment Policy

Unwise Asset Investment Strategies
- Ralph Blumenthal, "Institutions Finally Gain Control of Large Reader's Digest Bequest," New York Times, 5/4/01, A1, A23

Questionable Financial Activities by Legitimate Not-for-profit Organizations
- Laurie McFadden, "Travel Tours—Final Regulations Clarify When Tours Are Subject to UBIT," Exempt Organizations (Patterson, Belknap, Webb & Tyler, LLP, Newsletter), Summer 2000, 1-3.
- Peter Panepento, "Red Cross Marketing Deal Draws Critics," Chronicle of Philanthropy, 2/8/07, pp.2.

Managerial Incompetence
- Harvy Lipman and Grant Williams, “N.Y. Orders Officers to Repay Loans from Their Charities,” Chronicle of Philanthropy, 7/22/04.
- Alison Leigh Cowan, “How a Venerable Hospital Helped Undermine its Own Fiscal Health," New York Times,
• Justin Blum, “Vanished Scholarships Ruin Dreams,” *News & Observer*, 12/21/00, 1A, 20A.

**Pipevine**

• Stephanie Strom, “Charities Worry About Fall of Their Donation Collection,” *New York Times*, 6/5/03, A27.

**Use of Not-for-profit Organizations as Shelters by Terrorist Organizations**

• Shelley Murphy, “3 to be tried; US says men aided militants,” *Boston Globe*, 11/13/07.
• Mark R. Schulman, “Civil Society’s Response to the Challenges of Terrorism,” Conference Report, EastWest Institute, presented 6/7/04, i-xiii.

**Terrorist Funding Prevention**


**Ford Foundation**

• Susan V. Berresford, Letter to Congressman Jerrold Nadler, 11/17/03, (5 pages).
• Susan V. Berresford, Letter to Joel Fleishman, Attachment, 10/30/03, (6 pages).
• Nacha Cattan, “Probe Demanded of Ford Foundation Funding,” *Forward*, 10/24/03, 5.

**Political Use of Not-for-profit Organizations**


**Questionable Fundraising Techniques**


**Tainted Donations**

• Wire Report, “Charity Sends Back Lotto Player’s Gift,” *News & Observer*, 2/2/03, 3A.
Miscellaneous

- Avram Goldstein, "What Price Salary at a Nonprofit?" Washington Post, 4/14/03, E1, (5 pages).
- Michael Cronk, "Is Swim Coach Worth $353,518?" San Jose Mercury News, 4/14/03, (3 pages).
- Mike Allen, "Law on Disclosure May Apply to PACs," Washington Post, 7/20/00, A4.
- “Fleecing the Flock,” The Economist, 1/28/12 (2)

A Variety of Questionable Decisions

Fannie Mae


Getty Trust


Baptist Foundation


CLASS GUEST SPEAKER: CHRIS NELSON, 1982 DUKE TRINITY GRADUATE AND LAW ALUM, PRESIDENT OF THE DONALD AND DORIS FISHER FUND

4:30PM FIRG GUEST SPEAKER: CHRIS STONE– PRESIDENT AND CEO, THE OPEN SOCIETY FOUNDATIONS, WWW.OPENSOCIETYFOUNDATIONS.ORG RHODES CONFERENCE CENTER, 223 SANFORD.

6:30 PM BUFFET DINNER HONORING CHRIS STONE AND CHRIS NELSON AT PROFESSOR FLEISHMAN’S HOME. ALL MEMBERS OF THE CLASS WILL BE INVITED. BE SURE TO RSVP TO CASSIE LEWIS AT cassie.lewis@duke.edu

Topic for Paper Due on Sunday, January 26 at 4:00 p.m.: What do you see as the proper role for not-for-profits compared to government in addressing problems that affect society? Should the not-for-profit sector focus on societal problems that the government already addresses? Should it endeavor to create and pilot new solutions to existing problems, or should it target whatever issues their founders, directors and managers choose? Should tax-exempt status by limited only to organizations that serve critical needs, such as food and shelter, or should tax-exempt status be available to a wide range of organizations, as it is today? Consider the costs and benefits of your opinion.

Study Questions:
- What is the essential nature of the Not-for-Profit Sector, Independent Sector or Third Sector? What different connotations does each of those descriptors of the sector have?
- How does it differ from, as well as most effectively relate to, the for-profit and public sectors?
- What roles do philanthropy and volunteerism properly play in it?
- What do we mean by “civil society,” and how, if at all, does it differ from what we mean by “not-for-profit sector”?
- What are the most pressing challenges facing the not-for-profit sector today?
- What is the meaning of civic engagement and what role does the not-for-profit sector play in facilitating it?
- How much emphasis should charitable donors give to charities for the needy as compared with other charities?
- How do the events of September 11 complicate or motivate the achievement of civic engagement?

Required Readings (81 pages):
- Stephanie Strom, “Charitable Giving Rose Last Year for First Time Since 2007,” New York Times, 6/19/11, (2)
- [READ 1st PAGE ONLY] “U.S. Charitable Giving estimated to be $307.65 billion in 2008” Press Release: Giving USA Foundation, 6/10/09 (1)
- [READ 1st PAGE ONLY] “U.S. Charitable Giving estimated to be $298.42 billion in 2011”, Press Release: Giving USA Foundation, 6/19/12 (1)
- [READ 1st PAGE ONLY] “U.S. Charitable Giving estimated to be $316.23 billion in 2012” Press Release Giving USA Foundation 6/18/13 (1)
- Paul C. Light, “The Content of Their Character: The State of the Nonprofit Workforce,” The Nonprofit Quarterly, Fall 2002, 6-16
- Robert B Reich, “Is Harvard a Charity,” Los Angeles Times, 10/1/07, (2)
- “The Idea that the State Should Subsidize Giving to Good Causes is Resilient, But not Easily Justified,” The Economist, 6/8/12, (8)
- Peter Orszag, “Nonprofits Are Growing. What Is It They Do?” Bloomberg, 09/03/2013 (2)
- Susan Danish, “If a Nonprofit Falls in the Forest...” Stanford Social Innovation Review, 06/20/2013 (4)
- Staff, “Informing the Debate: Comparing Boston’s Charter, Pilot, and Traditional Schools.” Boston Foundation, 01/06/09 (3)
- [suggested readings from Chris Nelson]
Recommended Readings:

- Warren Buffett Gift to the Bill and Melinda Gates Foundation
- Foundation Leaders Address the State Budget Crises,” Foundation Center, September 2011, (4).
- Philip Gourevitch, “Alms Dealers,” New Yorker, 10/11/10, (7)

For Further Reading

- “Philanthropy’s Awareness Deficit,” PAI Digest on Harris Interactive survey findings, 4/22/08, (12).
- Aili McConnon, “Charities Go Begging,” Business Week, 10/6/08, (2).
- Nonprofit Capital Markets
- Elizabeth Keating, “Creating an Electronic Nonprofit Funding Marketplace,” Hauser Center, Harvard University, (10).

Giving While Living

- “31% of Donations by Individuals Benefit the Poor, Study Finds,” The Chronicle of Philanthropy, 7/26/07, (2).

IRS Oversight

- Peter Panepento, “IRS Revises Proposed Tax Form in Response to Critics,” The Chronicle of Philanthropy, 10/1/07, (3).

The Economy’s Impact on the NFP Sector


Former Soviet Union Regulation of Non-Government Organizations
- "Lukashenko to Shut Down NGOs Funded by the US," St. Petersburg Times, 7/20/07, (1).

Nick Miroff, “Charitable giving in short supply in Mexico,” Washington Post, 8/13/11, pp.3
- Steven Lee Myers, “Putin Hits Hard at Plots,” Raleigh News and Observer, 1/26/2006, 10A.
- America’s Top Givers, Special Report, Business Week, 12/1/03, 78-96.

Identity of William J. Clinton Foundation Donors (25 PAGES, 8 READINGS)

• Margaret Coker, “African and Middle East Donors to Clinton’s Foundation,” Wall Street Journal Online, 12/18/08, (2).
• “Clinton Foundation Got Big Lift From Hedge Funds,” New York Times, Deal Book, 12/22/08, (2).

Disaster Response and Charitable Giving

• “Donors Get a Second Wind After a Tough Year, Pumping Up Holiday Giving,” Raleigh News and Observer, 12/15/2005, 7A.
• Alan Abramson, “Responding to the Tsunami Disaster: Challenges for Charities and Donors,” The Aspen Institute: Snapshots, May 2005, 1-5.
• Tony Pipa, “Weathering the Storm: The Role of Local Nonprofits in the Hurricane Katrina Relief Efforts, Summary,” The Aspen Institute, 1-3.

Faith Based Giving
• Mike Allen "Bush Presses 'Faith-Based' Agenda; President Proposes Regulations to Ease Federal Funding" Washington Post, 9/23/03, A10 (2 pages).
• E.J. Dionne, Jr., "Faith-Based Talk—Where's the Action?" Washington Post, 6/10/03, A21.
• Alan Cooperman "Faith-Based Charities May Not Be Better, Study Indicates" Washington Post, 5/25/03, A7 (2 pages).
• Elizabeth Becker, "Bush is Said to Scale Back His Religion-Based Initiative: But He Hopes to Push for Full Bill Next Year," New York Times, 10/14/01, A18.
- David Nather, "Faith Initiative Backer Backs Away from GOP," CQ Weekly, 6/7/03, 1355.

Source Material for Consultation:
Study Questions:
1. Carnegie, Rockefeller, Duke, Mellon, Scaife, Turner, Gates, Soros, Buffett: Why did they give away such large amounts of money? What were their motivations for doing so? What ideas influenced them to do so? Who influenced them to do so? Their parents? What role, if any, did their education play in motivating them to do so? What role did their religion play? What did their critics say about their intentions?
2. What is your reaction to the Gates and Buffett Giving Pledge?
3. Do wealthy people give a larger percentage of their income to charity than poor people do? Do founders of foundations give from income or from capital? Do they usually get a tax benefit from doing so? What is the nature of that tax benefit, if any?
4. Do large donors seek to make money in order to give it away, or do they accumulate wealth because of greed or ambition as an end in itself? How does the motivation of the wealthy towards giving differ, if at all, from that of people of lesser means?
5. Do the motivations of donors for their giving make any difference to you so long as their deeds accomplish good for others? If so, what difference do the motivations make? If they are scoundrels or crooks in the making of their money, does that affect how you view their giving?
6. As a wealthy parent, how should you think about the question of whether and how much to give of your wealth to your children?
7. As the creator of a foundation, how would you think about the question of whether to establish your philanthropy in perpetuity as opposed to one with a limited time-span?
8. What are the arguments for and against anonymous giving?
9. As the president of a university which is offered a large gift by someone known to have been convicted of securities fraud, would you accept the gift even if you know it was motivated by the donor's wish to gain or regain respectability? How does the motivation of such a donor differ from that of other donors who give similar gifts?
10. Is the virtue of donors that arises from their giving mitigated by the fact that they receive a tax deduction for making donations?
11. Is the purpose of making available tax deductions in any way undermined by donors' decisions to make gifts consonant with their tastes, substantive interests and backgrounds, rather than with those social ills thought to be more pressing?
12. Consider the different styles of giving by different foundations and individuals. Some prefer to think of themselves as social venture capitalists who prefer to start new initiatives. Others prefer to assist efforts already under way. Some choose to support those with greatest material needs. Others concentrate on helping scholars and artists. Some foundations prefer to avoid both politics and criticism, while others see their role as activating political criticism. Some foundations prefer to cooperate on grants (indeed, seek to draw in partners), while others prefer to go it alone. Some donors seek to gain legitimacy for themselves by giving to institutions or organizations which already enjoy high public regard, while other donors are oblivious to such concerns, and still others seek to put their money and prestige behind thoroughly controversial recipients. Some donors prefer to give to many different objectives, while some choose to concentrate on one field of need. Some prefer to give only in their own community while others choose to reach out nationally.
13. To what extent are projects that greatly benefit a few individuals as worthy as other projects that benefit many more people but diffusely?
14. Are there any objective criteria of worthiness that donors can use to choose among the many competing potential recipients, or are such choices ultimately always subjective? How do individuals make these choices? How do foundations make these choices?
15. To what extent do donors' religious, philosophical, economic or political views determine how and what they give?
16. How do donors choose between giving to a rich, well-endowed university, and giving to a struggling community organization striving to help the indigent?
17. Venture philanthropy—the new philanthropy of the twenty-first century: what does it mean?

Required Readings (87 pages):
Philanthropists

- Brendan Coffey, “A Billionaire’s Friendly Foundation,” *Bloomberg Business Week*, 05/13/2013 (3)

**Recommended Readings:**

- Joel Stein, “It’s time to Give Back – to The Founder of my New Foundation,” *Time*, December 2011, (1)
- Amanda Ripley and Amanda Bower, “From Rags to Riches,” *Time*, 12/26/05, 72, (6).
- Michael D. Lemonick, “The Next Nobel?” *Time*, 8/2/07, (2)
- “To Give, Divine,” *Time*, 7/2/06, (1)

**Giving Pledge**


**International Givers**


**Big Ideas and Big Givers**


**Celebrities**

For Further Reading

- Jerry Harkavy, "South Gives Most to Charity," *News and Observer*, 11/21/05, 3A.

Great Historic Philanthropist Biographies


High-Tech Donors


Accumulating Assets With The Specific Goal Of Giving Them To Charity:


Leaving Money To Children Versus Giving It Away:


Involvement of Next Generation Members in Family Foundations:

• Nancy Gibbs, “Persons of the Year,” *Time*, 12/26/05, 38.

Conflicts Between Donors and Recipient Organizations:

• “Princeton Fights Donors’ Heirs for Control of $500 Million Gift,” *Bloomberg*, 8/20/03, (4 pages).

Significant Contemporary Philanthropists:

• Andrew Ferguson, “Building America,” *Philanthropy*, Fall 2012, (11)

International Philanthropists

• Elli Wohlgelernter, “Israel’s Richest Woman Packs Her Bags,” *Forward*, 10/3/03, 22.
• Kate Linebaugh and Jane Spencer, “The Revolution of Chairman Li,” *Wall Street Journal*, 11/2/07, W1
Case Study: Paul Mellon

Case Study: Richard Mellon Scaife

Case Study: George Soros
• Vance Serchuk, “Soros Pulls the Plug on Russia’s Open Society Institute,” Forward, 7/4/03, 5.
• Peter Baker, “Soros’s Mission in Russia Ends, $1 Billion Later,” Washington Post, 6/10/03, A14 (3 pages).

Case Study: Ted Turner

Case Study: Bill Gates
• Amy Waldman, “Gates Charity Pledges $200 Million to Combat AIDS in India” New York Times, 10/13/03.
• “The New Powers in Giving / Billanthropy,” Economist, 7/1/06.

Case Study: Joan Kroc
• Amy Waldman, “Gates Charity Pledges $200 Million to Combat AIDS in India" New York Times, 10/13/03.
• “The New Powers in Giving / Billanthropy,” Economist, 7/1/06.

Case Study: Charles Feeney
• “Giving it All Away,” Business Week Online, 9/24/07.

Donor Intent:
• Tyler Green, “Giver’s Remorse,” Fortune, 3/12/07
• Rebecca Gardyn, “A Seasoned Perspective on Giving,” Chronicle of Philanthropy, 6/10/04
• Jon Sanders, “Open a Present, and the Past,” News and Observer, 12/10/04
• Neal Freeman, “Foundation Follies,” Forbes, 9/5/05, 42.
• Jonathan Fanton, “Letter to the Editor” Forbes, 8/30/05.
• Stephanie Strom, “Uproar in Kansas City Over Foundation Chief,” New York Times, 10/20/03.
• Karl Greenfeld, “A New Way Of Giving,” Time, 7/24/00, 49-55.
• Paul Schervish and John Havens, “Wherewithal and Beneficence: Charitable Giving by Income and Wealth,”
  New Directions For Philanthropic Fundraising, Summer 1995, 81-109.
• Paul Schervish, “The Sound of One Hand Clapping: The Case for and against Anonymous Giving,”
• Isaac Klein, ed., “Treatise II: Laws Concerning Gifts to the Poor,” in The Code of Maimonides, Yale University
  Press, 1979, 75-93.
• Kate Shatzkin, “Generosity, Stealth Mode,” Baltimore Sun, 10/12/00, 1A.
  pp.3.
• Ben Gose, “Princeton Suit May Hinge on Judge’s Interpretation of Founding Document,” Chronicle of Philanthropy,
  11/15/07, pp.2.
• Ben Gose, “Critics Question Family’s Use of Private Fund to Pay Legal Costs,” Chronicle of Philanthropy,
  11/15/07, pp.2.
• Brad Gose, “New Center Aims to Give Higher-Education Donors More Power,” Chronicle of Philanthropy, 10/4/07,
  pp.4.
• Craig R. McCoy, “Quaker Charity Sued Over A Doctor’s Legacy,” Philadelphia Inquirer, 10/8/07, pp.5.
V. WEDNESDAY, FEBRUARY 12, 2014 – INDIVIDUAL GIVERS AND JOINERS: HUMAN AND SOCIAL IMPULSES TO CHARITY, PHILANTHROPY AND VOLUNTEERISM

CLASS GUEST SPEAKER: MICHAEL FAYE, FOUNDER AND BOARD CHAIR, GIVEDIRECTLY, AND PAUL NIEHAUS, CEO OF GIVEDIRECTLY; For More Information: www.givedirectly.org

4:30 PM FIRG SPEAKER: RIP RAPSON, PRESIDENT AND CEO, THE KRESGE FOUNDATION, WWW.KRESGE.ORG; RHODES CONFERENCE CENTER, 223 SANFORD.

6:30 PM BUFFET DINNER HONORING GUEST SPEAKERS PAUL NIEHAUS SPEAKER AND MICHAEL FAYE, AS WELL AS FIRG SPEAKER RIP RAPSON, AT PROFESSOR FLEISHMAN’S HOUSE. ALL MEMBERS OF THE CLASS WILL BE INVITED. BE SURE TO RSVP TO CASSIE LEWIS AT cassie.lewis@duke.edu

Topic for Paper Due on Sunday, February 9, 4:00 p.m.: Describe any of your activities that you regard as philanthropic or charitable, and analyze your motives for undertaking them. Describe how, at what age and at whose initiative you decided to get started doing them? Be precise about what you do, have done, or plan to do and why. Do you have any rules for your own guidance about whether to donate funds or volunteer time, and, if so, how do you decide how much? If not, how do you decide? Do you wait for someone to ask you, or do you seek out opportunities? Do you prefer to be asked? Describe the ways in which you think you have benefited by engaging in such giving and volunteering activities.

TERM PAPER: If you have not yet obtained approval for the topic of your term paper, please do so this week. The last date when Professor Fleishman will authorize term paper topics is March 5th.

Study Questions:
1. What does "philanthropy" mean?
2. What does the public response to the September 11 terrorism say about philanthropic motivation?
3. Why do we become involved in the lives of others, in mutual help activities, in altruistic community undertakings?
4. How do giving and volunteering vary with respect to racial, religious, ethnic and socioeconomic status? How might you account for the differences?
5. Why do people give money or donate time? Why do they say that they give? Why should they give? What justifications do non-givers use, and how persuasive are they? What do religion, philosophy, and psychology have to say about these questions?
6. How do different classes, races, ethnic and religious groups benefit differentially from different sub-sectors of the not-for-profit sector?
7. Consider how life events such as one's illness or the illness of a loved one attract individuals to give or raise money for various causes (e.g., disease research). Similarly, consider the notion of "give back," which attracts alumni to give to their institutions. What other such circumstances are particularly powerful incentives to give and raise money? Why?
8. What instinctive and learned motivations exist for giving? From where do these motivations come? To what extent, if any, can such activities reasonably be regarded as self-interested?
9. How much should someone give -- a minimum percentage of income or of accumulated wealth, or only as the spirit moves them?
10. What is your framework for thinking about whether or not to give to beggars who approach you on the street?
11. Do you utilize social media in your philanthropic pursuits? If so, how and how successful have they been?

Required Readings (93 pages):
- Review the Web Site for GiveDirectly, www.givedirectly.org
  - Minkin, “Our Religious Heritage”
  - Cass and Manser, "Roots of Volunteerism"
  - Thomas, "Altruism: Self-Sacrifice for Others"
  - Bombeck, "Without Volunteers"
  - Winthrop, "A Model of Christian Charity"
  - Bremner, "Doing Good in the New World"
  - Mather, "Bonifacius"
  - Emerson, "Man the Reformer"
Recommended Readings

- “Charity Makes Mondays Lovable,” *News Observer*, 09/05/10, (2)
- Grant Williams, “Decline in Reading Literature Spells Trouble for Charities,” *Chronicle of Philanthropy*, 7/22/04, (1)
- Pamela Ryckman, “Getting Into Charity Through its Board,” *Financial Times*, 7/20/07, (2)
- Marek Fuchs, “To Tithe or Not? These Days the Issue Only Starts There,” *New York Times*, 12/30/2006, B7, (2)
- “Miami’s Vice is Lack of Volunteerism,” *CNN.com*, 7/27/08, (3)
- Mary Medland, " A Social Worker Finds a Pet Cause in Rescuing Animals," *Chronicle of Philanthropy*, 2/8/07, (2)

For Further Reading:

Social Media
Motivation

- Chinmayi Sharma, “Butin: Service Programs Are Not Enough,” The Chronicle, 12/02/10, p.3&6. (2)
- Kelly Greene, “Baby Boomers as Tomorrow’s Volunteers,” News and Observer, 12/25/05, 6E.
- Caryle Murphy, “Salvation Army: A Church Known As A Charity,” News & Observer, 12/25/00, 21A.

How to Give Intelligently:


Directed Charitable Giving Ideas


Volunteering:

- Gallup Organization, “Church Attendance Closely Related to Community Involvement,” 2/3/00, 4-5.
Amy Goldstein, “Civic Involvement Tied to Education; High School Dropouts Unlikely to Vote,” Washington Post.


Giving by Women, Ethnic and Racial Minorities, Seniors and Religious Groups:

- Toddi Gutner, “Philanthropy with a Woman’s Touch,” Business Week, 10/30/00, 200.

Corporate Philanthropy


Giving Back


Educating Children for Charitable Giving


Charitable Giving and Social Capital


Giving to Beggars:

- Dennis Rogers, “Brother, If You Care, Don't Spare Panhandlers A Dime,” News & Observer, 6/17/94, 2B.
Other Topics

VI. WEDNESDAY, FEBRUARY 19, 2014–RATIONALES FOR TAX EXEMPTION OF FOUNDATIONS AND VOLUNTARY ORGANIZATIONS; GOVERNMENT EXACTIONS IN EXCHANGE FOR TAX EXEMPTION

Topic for Paper Due on Sunday, February 16, 4:00 p.m.: Analyze the required readings in Fishman/Schwarz. In particular, consider the several theories that justify tax exemption and assess their persuasiveness. Consider how those theories apply to the National Collegiate Athletic Association, Bob Jones University, and other organizations. In that connection, discuss the Sound Health Association v. Commissioner (p. 328-329), IHC Health Plans, Inc. v. Commissioner (p.330-337), Bob Jones University v. United States (p.370-389) and Holy Spirit Association v. Tax Commission (p.416-427) cases. Should “charity” be construed more narrowly to aid the poor or, alternatively, should organizations aiding the poor enjoy more favorable tax treatment? Should charity be construed as broadly as it is to include gifts such as the maintenance of pets or other non-human benefiting purposes? And, if so, where would you draw the line between appropriate and inappropriate purposes of tax-exemption?

Study Questions:
1. What are the policy objectives of legislation establishing tax-exemption of organizations and the deductibility of gifts to them?
2. How persuasive are these policy objectives?
3. What burdens, if any, ought government to be reasonably able to impose by way of reporting requirements, taxes, financial pay-out requirements, restrictions on lobbying, or other burdens?
4. Should the tax exemption for religious activities extend to organizations which advocate discrimination on the basis of race, anti-Semitism, anti-Islam, or other widely disfavored positions? Where should society draw the line?
5. How do we decide what type of “religious” organizations are entitled to charitable deductions? Issues have been raised relating to voodoo, Wicca and other “non-traditional religions.” Is there any definition of what a “religion” is that has “bite”?
6. In thinking about what an appropriate charitable purpose is under law, how would you define the limits? Are the limits appropriate? Refer to the Leona Helmsley and Henry George articles.

Required Readings (131 pages):
* Fishman/Schwarz, p.294-337, 369-389, 416-427, 1034-1038 (82)
  - Michael Grunwald, “One Nation, Tax Exempt,” Time, 06/10/2013 (1)
  - Robert Ingram, “Why charities should stay tax exempt,” News and Observer, 04/29/2013 (2)
  - Ruth Marcus, “The other IRS scandal,” News and Observer, 05/15/2013 (2)
  - Editorial “Take Politics Away from the I.R.S.,” New York Times, 05/15/2013, (2)

Recommended Reading:
- “Donor Advised Fund Assets Return to Pre-Recession Levels,” The Chronicle of Philanthropy, 11/15/12, (1)
- Paul Berger, “Fast-Growing Charity Funds Raise Issues,” Forward.com, 2/3/12, (3)
- Staff, “Tax-Exempt Organizations and Charitable Giving: Senate Finance Committee Staff Tax Reform Options for Discussion,” Senate Finance Committee Staff, 06/13/2013 (19)
- Marc Goldwein, Jessica Stone, and Adam Rosenberg, “Beyond Tax Expenditures,” Tax Notes, 07/15/2013 (7)

Supporting Organizations

Private Benefit

Recent IRS Reforms
• “Policy and Practice Checklist for the 2008 IRS Form 990,” Simpson Thacher, Client Memorandum, 12/8/08, (7).

Investment Constraints on Tax-Exempt Organizations
• Ryan Donmoyer and Alison Fitzgerald, “Robin Hood Ends Investment in Board Members’ Funds,” *Bloomberg*, 7/19/07, (2).

Appropriate Charitable Purposes for Tax-Exempt Organizations
• Leslie Lenkowsky, “Should A Big Bequest Go to the Dogs?” *Chronicle of Philanthropy*, 8/21/08, (2).

I.R.S. SCANDAL OF 2013
• Nicholas Confessore, “Uneven I.R.S. Scrutiny Seen in Political Spending by Big Tax-Exempt Groups,” *New York Times*, 05/13/2013 (4)
• Editorial, “The I.R.S. Audits are Condemned,” *New York Times*, 05/13/2013 (2)
• Alan Fram, “Treasury officials told of IRS probe in June 2012,” *News and Observer*, 05/17/2013 (4)
• Floyd Norris, “A Fine Line Between Social and Political,” *New York Times*, 05/16/2013 (4)
• Victor Fleisher, “Congress’s Role in the I.R.S. Focus on Conservative Groups,” *New York Times*, 05/20/2013 (2)
• Nicholas Confessore, David Kocieniewski, and Michael Luo, “Confusion and Staff Troubles Rife at I.R.S. Office in Ohio,” *New York Times*, 05/18/2013 (8)

Exemption of Particular Organization Types
Exemption for the NCAA:

Exemption of Political Organizations:
• Eric Lipton, “Congressional Charities Pulling in Corporate Cash,” *New York Times*, 09/05/10, (6).

Exemption of Credit-Counseling Organizations

For Further Reading
Hospital Tax Exemption:


Taxation Reform:

- Charles Clotfelter, ”The Effects of Tax Reform Proposals on Charitable Giving and the Nonprofit Sector,” Testimony Before the House Ways and Means Committee, 5/1/96, 1-5.

Property Tax Exemption:


Donation of Property Easements for Environmental Purposes


Other Tax Exemptions:

- “FY 2007 Exempt Organizations (EO) Implementing Guidelines,” US Government, Department of the Treasury,
Internal Revenue Service, 11/7/06.

- Staff, "University Medical Center Loses Its Tax Break," AGB, 5-6/98, 33.
- David Schulman, “More to Get Tax Break for Contributions in N.C.,” News & Observer, 10/16/98, 3B.
VII. WEDNESDAY, FEBRUARY 26, 2014 – THE NITTY GRITTY OF TAX EXEMPTIONS AND DEDUCTIBILITY; EFFECTIVENESS OF TAX POLICY IN INCREASING/DECREASING DONATIONS

4:30 P.M. FIRG SPEAKER DAVID BLUMENTHAL, MD, PRESIDENT AND CEO, THE COMMONWEALTH FUND; WWW.COMMONWEALTHFUND.ORG; RHODES CONFERENCE CENTER, 223 SANFORD.

Topic for paper Due on Sunday, February 23, 4:00pm: Analyze and synthesize the required readings in Fishman/Schwarz, especially the major cases (Church of Scientology [p.446-454], United Cancer Council [p.249-256; 460-461], Sklar [p. 845-856], Hernandez [p.856-858], Blake [p. 868-873], and Winokur [p.881-886]).

Study Questions:
1. How would you restructure tax preferences to provide incentives for greater charitable giving without unduly benefiting the wealthy at the expense of the less-well-off?
2. How should we view tax-reduction-motivated charitable schemes proposed by financial advisors and salesmen?
3. What role should the needs of prospective recipients play in allocating charitable resources, as opposed to the goals of the donors?
4. Absent tax preferences, would foundations exist? Would individuals donate? To what extent should Congress stipulate a maximum term of years for the life of a foundation? Are there reasons a foundation should be limited in life while all other charitable organizations are permitted to exist in perpetuity?
5. When and why did the United States, either in federal legislation or in laws enacted by state governments, institute tax deductibility for charitable gifts?
6. It has been argued that both tax-exemption and tax-deductibility are forms of public subsidy. Do you agree? What are the arguments for and against such tax incentives for socially beneficial activities? What are the arguments for and against offering citizens leverage over the resources of others as an incentive to them to give their own resources to those purposes that serve the public interest?
7. How valid is the argument that, absent such an offer of leverage, individuals would not contribute private money to the same extent and thereby make society poorer by augmenting expenditures of tax revenues for the same purposes? What empirical data are relevant?
8. Is the true effect of tax deductions for charitable gifts to force some Americans to pay slightly higher taxes in order to subsidize the charitable giving of others? Why let some individuals determine how to spend the money of other individuals?
9. Would America be better off if citizens could not take tax deductions for charitable giving, preventing Congress from spending the tax savings on whatever it regards as the most pressing ills? Which kinds of institutions would suffer most from such a change?
10. What are the policy purposes of the estate tax? Should it be permanently repealed, and if not, why?
11. In view of the growing consensus that the cumulative national debt needs to be substantially reduced, we may well be faced with a situation in which tax expenditures are significantly reduced. How big of a threat is this to America’s non-profit sector?

Required Readings (156 pages):

- Fishman/Schwarz p. 249-256; 446-454; 460-461; 703-734 828-858, 868-873, 881-886 (94)
- Roger Colinvauz, Brian Galle, and Eugene Steuerle, “Evaluating the Charitable Deduction and Proposed Reforms,” Urban Institute, June 2012 (21)
- “Who Claims Itemized Deductions and How Much Do They Claim,” Urban Institute / Brookings Institute, 10/3/12(8)
- C. Eugene Steuerle, “Tax Reform and Charitable Contributions,” Testimony Before the Committee on Ways and Means, U.S. House of Representatives Hearing on Tax Reform and Charitable Contributions, 02/14/2013 (9)
- Staff, “The Church of Scientology: In search of answers,” The Economist, 02/09/2013 (2)

Recommended Readings:

• Joseph Weber, "Deductibles: A Faith-Based Alternative to Tuition," *Business Week*, 8/1/05, (1)
• Elizabeth Schwinn, "IRS Gives Approval for New Kind of Gift," *Chronicle of Philanthropy*, 10/14/04., (1)
• "Gift of Violins Strikes a Sour Note," *News and Observer*, 5/2/04. (1)
• Daniel Altman, "If the I.R.S. Gets Less, Does Charity Get More?" *New York Times*, 5/8/05, B6. (1)
• Diana Aviv, Memorandum Re: Congressional Reform, 11/18/05. (2)
• Anne Tergesen, "Tapping a School's Investment Savvy," *Business Week*, 7/23/07, (1)
• Dominic Kennedy, "Scientologists Set to Cash in on Tax Break," *Times UK*, 6/23/07. (2)

**For Further Reading:**

**Private Benefit**
• “Philanthropy, Fannie Mae Style,” *Business Week*, 4/2/07. (2)

**Estate Tax Debate**
• Stephanie Strom, “Charities Are Silent on Loss of Estate Tax," *New York Times*, 4/24/05. (2)

**Unrelated Business Income Tax**
• Evelyn Brody and Joseph Cordes, “The Unrelated Business Income Tax: All Bark and No Bite?” Urban Institute, 4/20/01. (3)

**Tax Credits for Contributions to Private School Scholarships**
• Ben Gose, "State Tax Credits Let Donors Give Big for Much Less,” *The Chronicle of Philanthropy*, 11/15/12, (4)
• Stephanie Saul, “Public Money Finds Back Door to Private Schools,” *New York Times*, 5/21/12, (12)

**Endowing Your Annual Gift**
• Maayan Jaffe, "Endowment Gifts Keep on Giving," *Baltimore Jewish Times*, 11/27/12, (3)

**Topical Legislative Activity**
• Stephanie Strom, "Foundations Roiled by Measure to Spur Increase in Charity," *New York Times*, 6/19/03, (3 pages).
• Editorial Staff, "How Expensive Should Philanthropy Be?" *San Jose Mercury News*, 6/2/03, (2 pages).

**Pension Protection Act of 2006**
History of Estate Tax Repeal


Gifts of Property (Including Stock) Rather Than Cash


Charitable Deduction

- "IRS Confirms Deductibility of Contributions to Domestic Disregarded Entities," Caplin & Drysdale, 8/3/12, (3)
- David Cay Johnson, "Tax Study: The Richer, the Stingier" News and Observer, 12/19/05, 5A.

Tax-Savvy Charitable Strategies and Proposals

- Deborah L. Jacobs, "Donations that Suit the Taxman," Business Week, 2/20/2006, (1)
- "Bequests and Other Forms of Planned Giving," Giving USA Update, Issue 2, 2002.
- Jennifer Moore and Grant Williams, "North Carolina Beefs Up Charitable Tax Break," Chronicle of Philanthropy,
11/5/98, 75.

- Ashlea Ebeling, "Going, Going, Deducted!" Forbes, 9/7/98, 228-229.

Supporting Organizations


Restrictions on Foundation International Grant-Making


IRS-Related Issues

- "IRS Releases Study on Charitable Trusts," Chronicle of Philanthropy, 5/3/01. (1)

Other Tax-Related Issues

- Sharon Reier, "When Establishing Charities, a Warm Heart Calls for a Cool Head," The Herald International Tribune, 5/26/01, (1)
- Mary Engel, Hospital’s Charity Work Hard to Assess," Los Angeles Times, 12/14/07. (1)
- "Memorandum: Disaster Tax Relief for Individuals and Charities," Ropes & Gray, 1/24/02.
VIII. WEDNESDAY, MARCH 5, 2014– DEFINING THE NOT-FOR-PROFIT SECTOR: SIMILARITIES, DIFFERENCES, FUZZY BOUNDARIES AND COMPARATIVE ADVANTAGES AMONG THE SECTORS

SPEAKER TO CLASS: JACOB HAROLD, 1999 DUKE ALUM, PRESIDENT AND CEO OF GUIDESTAR; WWW.GUIDESTAR.ORG

6:00 P.M. BUFFET DINNER AT HOME OF PROFESSOR FLEISHMAN HONORING JACOB HAROLD; ALL MEMBERS OF THE CLASS WILL BE INVITED. BE SURE TO RSVP TO CASSIE LEWIS AT CASSIE.LEWIS@DUKE.EDU

Topic for Paper Due on Sunday, March 2, 4:00 p.m.: Analyze and criticize the required Jim Collins and Michael Novak readings for today. What do you see as the distinctive strengths and weaknesses, respectively, of the for-profit sector, the not-for-profit sector, and the public sector? What does your analysis suggest as reasonable possibilities for cooperative cross-sector problem-solving which leverage the strengths and avoid the weaknesses of each sector?

Study Questions:
1. Assess society’s allocation of functional missions to one sector, another sector, or several sectors jointly. Give reasons for your views.
2. How do the component fields of the not-for-profit sector differ from one another in the social and individual needs they fill, in their forms of organization and governance, and in their means of support?
3. What characteristics define the separate sectors, and distinguish one from another?
4. To what extent is it possible to identify a form of activity which is peculiarly appropriate to one or another sector?
5. Can you develop a theory that explains why particular kinds of activity are better located in the not-for-profit sector as opposed to the public sector? The for-profit sector?
6. Do differential salary levels among the not-for-profit, for-profit and public sectors help to illuminate the appropriate boundaries among the sectors?

Required Readings (169 pages):

SPEAKER REQUIRED READINGS:
• Davina Drabkin and William Meehan, “GuideStar Case” Stanford GSB, 01/02/13 (18)
• Jacob Harold, “Learning from the farmer’s market,” Alliance Magazine. 03/01/2009 (1)
• Staff, “Data & Information Flow in the Social Sector (Infographic),” GuideStar. (1)
• Staff, “GuideStar 2018: Building the Scaffolding of Social Change (Draft #18, Internal Strategic Plan), GuideStar. (31)
• Staff, “Markets for Good: Upgrading the Information Infrastructure for Social Change,” Gates Foundation/Hewlett Foundation/LiquidNet, Fall 2012 (15)

CLASS REQUIRED READINGS:
• Elizabeth Boris, “Contracts and Grants Between Human Service Nonprofits and Governments,” The Urban Institute, 10/1/2010 (7)
• Joseph Schumpeter, “Profiting from Non-Profits,” The Economist, 7/15/2010, (2)
• Takaaki Iwabu, “McCrory plan enlists private sector to aid NC development,” News and Observer, 04/08/13 (3)

Recommended Readings:
• William C. Symonds, “Leaving Harvard Greener,” Business Week, 1/24/05. (1)
• Jacob Harold, “First 32 Weekly Notes at Guide Star,” Personal Correspondence. (70)

Nonprofit-Public Sector Relations

• Justin Pope, “Colleges Resist For-Profit Schools,” Washington Post, 5/8/05, (1)

Case Studies:

Social Entrepreneurship

• Ryan J. Donmoyer and Alison Fitzgerald, “Robin Hood Nest Egg Draws Scrutiny From Congress,” Bloomberg, 7/15/07 (3)

Nonprofit—For-Profit Sector Relations

• Stephanie Strom, “Rules Sought on Retailers’ Ties to Charities,” New York Times, 12/16/07, (2)
• Andrew Jack, "Philanthropy: More May Not Be Better," Financial Times, 7/5/07 (2)
• Andrew Jack, “Corporate Citizenship: More Than the Sum of the Parts,” Financial Times, 7/5/07 (3)
• Sarah Murray, “NGO Evolution: Charities Look To Businesses,” Financial Times, 7/5/07 (3)

Profit-Oriented Behavior by Nonprofits

• Sharon Begley, “Why Nonprofits Fund For-Profit Companies Doing Drug Research,” Wall Street Journal, 1/26/07. (2)
• Ben Gose, “Supporters Say Venture Philanthropy Still Thrives, Even If Reach is Limited,” Chronicle of Philanthropy, 10/14/04, (3)
• Pablo Eisenberg, “The Public Loses Out When Charities Become Too Businesslike,” Chronicle of Philanthropy, 6/10/04, (2)

For Further Reading:

Privatization of Human Services
• Jacques Steinberg, “For-Profit School Venture Has Yet to Turn a Profit,” New York Times, 4/8/02, A16.

For-Profit Conduct By Not-for-Profit Organizations
• Vicki Lee Parker, “Nonprofit Buys Room to Expand,” News & Observer, 8/7/02, 3D.
• Reed Abelson, “Demand, but No Capital, at Nonprofit Hospitals,” New York Times, 6/21/02, C1, C12.
• Diane Brady, “When Nonprofits Go After Profits,” Business Week, 6/26/00, 173, 174, 178.
• John Deckop and Carol Cirka, “The Risk and Reward of a Double-Edged Sword: Effects of a Merit Pay Program on Intrinsic Motivation,” NVSQ, 9/00, 400-418.
• Eugene Steuerle, “When Nonprofits Conduct Exempt Activities as Taxable Enterprises,” Urban Institute, 5/25/01.
• Leigh Gallagher, “Prairie Home Commercial,” Forbes, 8/6/01, 54-55.
• The Hauser Center, “When Exempt Organizations Conduct Exempt Activities as Taxable Enterprises,” Materials from Seminar on Emerging Issues in Philanthropy, Harvard University, 11/30/00.
• Burton Weisbrod, To Profit or Not to Profit. Cambridge University Press, 1998, (22)

Venture Philanthropy and Social Enterprise
• Buzzy Gordon, “Hi-Tech Philanthropy,” Jerusalem Post, 5/24/00, 8.
• Todd Shapera, “Fame and Fortune,” Foundation News & Commentary, 11-12/00, 30-35.
• S.L. Wykes, “Millions To Benefit Schools; New Schools Fund: Group Hopes to Distribute $20 Million for Education and to Provide Other Support,” San Jose Mercury News, 7/25/99, 1B.
• Thomas Jaffe, “Putting Miracle-Gro on Kids,” Forbes, 2/8/99, 70, 72.
• Linda Seebach, “Crafting A Philanthropic Legacy Takes Hard Work Now,” Rocky Mountain News, 9/26/00, 2B.
• Quentin Hardy, “The Radical Philanthropist,” Forbes, 5/1/00, 114-121.
• Karl Greenfeld, “A New Way of Giving,” Time, 7/24/00, 49-59.
• Domenica Marchetti, "The Richest Link," The Chronicle of Philanthropy, 6/14/01, 20, 22.

For-Profit Consulting for Not-for-profit Organizations

Not-for-Profit Activity by For-Profit Entities

Private Funding Of Not-for-profit Organizations

Public Sector Support of Not-for-Profit Organizations
• Dan Kane and Rob Christensen, “Web Site Tracks State’s Grants to Nonprofits,” News and Observer, 5/27/04, 5B.

Public-Private Partnerships And Hybrids

For Profit and Not-for-Profit Partnerships
• Burton Weisbrod, To Profit or Not to Profit. Cambridge University Press, 1998.

Nonprofit-Public Sector Relations:
• Peter Dobkin Hall, "Re: Literature Sector Blurring," Email to NonProfit and Voluntary Action Discussion Group, 2/22/98.

Nonprofit-Private Sector Relations

Privatization of Human Services
• Grant Williams, "Groups Sue N.Y. Officials Over Blue Cross Conversion," Chronicle of Philanthropy, 9/5/02, 43.
• J. Adam Abram, "Blue Cross Owes Public a Strong Duty," News & Observer, 11/30/02, 27A.
• John Morris and Suzanne Helburn, "Child Care Center Quality Differences: The Role of Profit Status, Client Preferences, and Trust," NVSQ, 9/00, 377-399.
• Bradford Gray, "Conversion of HMOs and Hospitals: What's at Stake?" Paper from Conference on Conversions of Nonprofit Health Care Organizations, 10/30-31/96, 1-54.
• Robert Clark, "Does the Nonprofit Form Fit the Hospital Industry?" 93 Harvard Law Review 1416-1489 (1980).
• Myron Roomkin and Burton Weisbrod, "Managerial Compensation in For-Profit and Nonprofit Hospitals: Levels, Composition, and Implications for Organizational Behavior," Paper, 4/6/98, 1-15.
Study Questions for both Hybridization I & II:

1. Consider the many examples of hybrid for profit/not-for-profit institutions formed in the last 10 years. For example, the Omidyar Network makes grants to not-for-profits and supports for profit organizations that have socially oriented missions. Google also set up a billion dollar fund promoting social change, of which only 10% is allocated for not-for-profits. How far should this hybridization movement go? Are there any real boundaries between sectors?

2. Consider the many different forms of giving philanthropy: individual giving; giving to institutions such as churches, universities, United Ways, establishing private foundations; establishing family foundations; establishing donor-advised funds at financial institutions such as Fidelity; corporate giving either directly or through corporate foundations; “corporate social investments,” which are profit-oriented but are aimed to solve social problems; and community foundations. How do community foundations differ from private foundations and from United Ways?

3. How does corporate philanthropy differ from individual and foundation philanthropy?

4. Should corporations be permitted to make charitable contributions with what is essentially stockholder’s money? Consider the differences, if any, between corporate foundations, philanthropic foundations, community foundations, and individual donors in this regard.

5. What are the arguments supporting and opposing the increase of foundation pay-out rates?

6. What right do unelectable, unaccountable foundations have to finance politically charged authors? What difference does it make whether or not foundations are accountable? Must foundations be accountable to justify supporting radical ideas of the political right- or left- wings?

7. Are there reasons why the Pew Charitable Trusts should not be permitted to transform itself from a group of charitable trusts, operating like a private foundation, into a public charity? What are the social consequences of its being permitted to do so?

Required Readings (145 pages):

- Steve Lohr, “First, Make Money. Also, Do good.” New York Times, 8/13/11, (4)
- Janet Babin, “Nordstrom to Open Concept Store in New York City,” Marketplace, 10/28/11, (2)
- Daniel Akst, “What Are Foundations For?” Carnegie Reporter, Fall 2004. 2-9, (7)
- Staff, “Playing with fire”, The Economist, 02/25/2012, (3)
- Staff, “10,000 Small Businesses”, Goldman Sachs, n.d. (Review Brochure)
- Staff, “10,000 Women Summary”, Goldman Sachs, n.d. (Review Brochure)
- Ben Gose and Marisa Lopez-Rivera, “With Cash Giving Flat, Big Companies Offer Other Aid, Chronicle of Philanthropy, 07/14/2013 (6)
- Staff, “Commerce and conscience,” The Economist, 02/23/13 (1)
- Staff, “Profit with Purpose,” The Economist, 01/26/13 (1)
- Diana Aviv and Antony Bugg-Levine, “Social-Service Groups Won’t Survive Without New Sources of Revenue,” Chronicle of Philanthropy, 07/14/13 (3)

**Recommended Readings:**

- Ben Gose, Sarah Frontenson, and Marisa Lopez Rivera, “10 Companies that Gave the Most Cash in 2012,” *Chronicle of Philanthropy*, 07/14/13 (10)
- Christopher Gergen and Stephen Martin, “Nonprofit works to lower NC residents energy bills,” *News and Observer*, 02/16/2013
- David Brown, “Pfizer Donating 135 Million Doses of Anti-Blindness Drug,” *Washington Post*, 11/12/03, (2)
- Ariana Eunjung Cha, “Microsoft’s Big Role on Campus,” *Washington Post*, 8/25/03, A1, (3)
- John Boudreau, “Pouring Profits into Non-profits,” *San Jose Mercury News*, 8/2/03, (2)
- Christopher Marquis, “Doing Well and Doing Good,” *New York Times*, 7/13/03, (2)
- Stephanie Strom and Claudia H. Deutsch, “P&G Link in Amex Contest Raises Questions of Fairness,” *New York Times*, 7/28/07, (2)
- Douglas K. Smith, “Fantasy Philanthropy Baseball,” *Slate Magazine*, 10/19/07, (2)
- Casey Newton, “Bay Citizen, Berkeley reporting group to merge, SFGate, 03/28/12, (2)

**Goldman Sachs Initiative**

- Richard Murphy, "Goldman’s Gift", *Fortune*, 01/17/2011, (3)
- Jia Lynn Yang, “Goldman Sachs, State Department partner to help women”, *The Washington Post*, 03/08/2011 (1)

**Public Benefit Corporations**

- Reid and Riege, PC, "To B or not to B – That is the Question? What nonprofits need to know about Benefit Corporations, *Nonprofit Organization Report*, Fall 2012 (4)

**Social Entrepreneurship**

- Grace Wong, “Private Equity: Scrooge No Longer,” CNNMoney.com, 7/10/07, (2)

**Venture Philanthropy**

• Mario Morino, “Effectiveness and Excellence in Non Profits,” ACT Annual Forum, 10/5/06, (14)
• Michelle Conlin, “Shop (In the Name of Love),” Business Week, 10/2/2006, (1)

Incentivizing Prizes to Solve Social Problems
• Rick Wartzman, “Landing X Prize in Earthly Endeavors,” Los Angeles Times, 2/16/07, (3)
• Cornelia Dean, “If You Have a Problem, Ask Everyone,” New York Times, 7/22/08, (2)
• Steve LeVine, “Can X Prizes Spur Innovation?” Business Week, 11/20/08, (4)
• Brennen Jensen, “Google Gives $30-Million to Create Space-Travel Prize,” Chronicle of Philanthropy, 9/20/07, (1)

Corporate Giving/Corporate Social Responsibility
• Peter Bolton et al, “More Companies Seek Greater Impact for Their Philanthropic Dollars”, Chronicle of Philanthropy, 07/28/11, (2)
• Asher Schecter, Meet the Jewish billionaire who studies Torah every morning”, Haaretz, 03/16/12 (4)

Foundation-Owned Institutions

For Further Reading

For-Profit Initiatives to Solve Social Problems / Corporate Social Responsibility
• Review the website for “Good Corps:” www.goodcorps.com
• Dana Brakman Reiser, “For Profit Philanthropy,” 77 Fordham L. Rev. 2437-2473 (2009), pp.35
• Manny Fernandez and Kate Hammer, “Twist in Eviction Fight; Charity as Landlord,” New York Times, 9/16/07, pp.3
• “Designing Change,” Business Week, 3/12/07, pp.3
• Ian Wilhelm, “Clinton Effort to Fight Global Ills Tallies $7.3-Billion in Pledges From Donors,” Chronicle of Philanthropy, 10/12/2006, 12, pp.2
• Tara Kalwarski, “Do Good Investments Are Holding Up Better,” Business Week, 7/14/08, pp.1
• Bill Gates, “How To Fix Capitalism,” Time, 8/11/08, pp.7
• Michael Kinsley, “The Audacity of Bill Gates,” Time, 8/11/08, pp.1
• Ian Wilhelm, “Corporate Giving Spurs Sales Growth,” Chronicle of Philanthropy, 2/8/07, pp.2
• Stephanie Strom, “A Quest for Hybrid Companies That Profit, but Can Tap Charity,” The New York Times, 10/12/2011, pp.4
• Brian O'Connell, ed., America's Voluntary Spirit, 345-362, 377-405:
  Yarmolinsky, “The Foundation as an Expression of a Democratic Society”
  Rockefeller, "The Third Sector"
  Karl, "Corporate Philanthropy: Historical Background"

Community Foundations
• Ben Gose, “Pioneering a New Direction,” Chronicle of Philanthropy, 10/12/06.

Corporate Giving/Corporate Social Responsibility
• Lauren Gard, “We’re the Good Guys, Buy from Us,” Business Week, 11/22/04, 72-74.
• Robin Goldwyn Blumenthal, “Socially Responsible Investing is Gaining Fans…and Clout,” Good Vibes.
• Jon Kalish, “A Telecom Exec Transmits a Message of Philanthropy,” Forward, 7/19/02, 2.
• Staff, “The Helping Hand,” Business Week, 6/5/00, 14.
• Christopher Schmitt, “Corporate Charity: Why It’s Slowing,” Business Week, 12/18/00, 164, 166.
• Debra Blum, “Corporate Giving Rises Again,” Chronicle of Philanthropy, 7/13/00, 1, 9, 14-16, 18.
• Craig Sasse et al, “Rethinking the new corporate philanthropy”, Business Horizons, 2007, (10)
• Diane Brady, “Volunteering as a Core Competency”, Bloomberg Business Week, 11/12/2012, (2)
• Staff, “IBM Services Grants – 2012 Offerings”, 2012, (2)
• Staff, “IBM Citizenship Programs Overview,” 2011, (19)
• Staff, “Smarter Cities Challenge: Durham – Connecting Youth to Opportunities,” 03/01/2012, (16)
Foreign Countries Treatment of For Benefit Corporations

Foundation/Corporation Partnerships

Motivations for Corporate Giving and Other Forms of Socially Responsible Business Practices

Regulation of Corporate Giving

Foundations
- Tamar Lewin, "Charity Funds Shift to West, Spreading the Wealth," *New York Times*, 7/1/01, (2)

Foundation Social Investment Policy
- Susan Scherreik, “A Conscience Doesn't Have to Make You Poor: Funds With Heart Are Racking Up Dandy
Returns,” *Business Week*, 5/1/00, 204-208.


**Foundation Pay-out:**


**Family Foundations**


**Community Foundations**


**Foundation Accountability (Including Public Disclosure)**

• Allan Parachini, “Communication Key To Foundations’ Prosperity,” *Chronicle of Philanthropy*, 9/21/00, 55-56.

Charitable Gift Funds
• Amy Anderson, “Charity Looks Like Growth Area For Banks,” *American Banker*, 12/7/00, 9.
• Alan Cantor, “Defining Moments,” *Foundation News & Commentary*, 5-6/00, 24-25.
• Mary Williams Walsh, “Philanthropy Is Good Business For Gifts Fund,” *Los Angeles Times*, 12/30/99, 1A.
• Paul Desruisseaux, “MacArthur Foundation Seeks A Narrower, Deeper Focus,” *Chronicle of Higher Education*, 53
7/14/00, A34-A36.


**Corporate Philanthropy**


**Foundations**


**Incentivizing Prizes**


SPEAKER TO CLASS—FRED KRUPP, PRESIDENT AND CEO OF THE ENVIRONMENTAL DEFENSE FUND

4:30 P.M. FIRQ SPEAKER TUESDAY, MARCH 25, FRED KRUPP; RHODES CONFERENCE CENTER, 223 SANFORD.

6 P.M. TUESDAY NIGHT, MARCH 25, NOTE THAT THERE WILL BE A BUFFET DINNER HONORING FRED KRUPP AT PROFESSOR FLEISHMAN’S HOME; ALL MEMBERS OF THE CLASS WILL BE INVITED. BE SURE TO RSVP TO CASSIE LEWIS AT cassie.lewis@duke.edu

Study Questions:
See Hybridization I

Required Readings (90 pages):
- Brennen Jensen, “Foundation Hopes to Help Oklahoma ‘Switch’ From Oil to Grass,” Chronicle of Philanthropy, 10/4/07, (3)
- James Surowiecki, “What Microloans Miss,” New Yorker, 3/17/08, (2)
- Barney Jopson, “Potential of Microcredit ‘Grossly Overestimated,'” Financial Times, 2/16/07, (1)
- Carl Nathan, “Ganging up on killer bugs,” News and Observer, 12/15/12, (2)
- Esha Chhabra, “A Social Entrepreneur’s Quandary: Nonprofit or For-Profit?” New York Times, 07/10/13 (4)

Recommended Readings:
- Liam Krehbiel, “A Better Chicago: Summer Update,” 8/1/11, (2)
- Jeffrey Gangemi, “Microcredit Missionary,” Business Week, 12/26/2005, (1)
- Victoria Murphy Barret, “Doing Well, Doing Good,” Forbes, 4/23/07, (2)
- Alison Damast, “Narrowing the Nonprofit Talent Gap,” Business Week, 8/11/08, (2)

- Staff, "Firms with benefits," The Economist, 01/07/2012, (2)

Spreading Technologies as Accountability Mechanisms
- Mario Marino, "Here Comes the Sun," VPPnews, 9/2009, (5)

Perpetuity, Spending-Down, and Paying Out More than the Minimum
- "Highlight of Perpetuity or Limited Lifespan: How Do Family Foundations Decide?" The Foundation Center, 2009, (6)
- Vincent McGee, "Spending Out as a Philanthropic Strategy," Foundation Center, 1/10/07, (8)
- Amy Shiller, "When Foundations’ Days Are Numbered," Forward, 11/27/12 (3)
- Mark Brown, “Littlewoods heir’s philanthropy to end after 50 years,” The Guardian, 12/03/2012 (3)

For Further Reading
- VPP and Year Up Enter $4.5 Million Partnership: Growth Capital to Create Career Pathways for DC Area Disconnected Youth, Venture Philanthropy Partners, November 2009.

Impact Investing:
- Nancy Roob, EMCF President’s Letter: The True North Fund and the Power of Partnerships (1)
- Staff, “Proposed Regulations Providing Additional Examples of Private Foundation Program Related Investments,” Simpson Thacher Memorandum, 04/19/2012 (6)
- Monitor Institute, "Investing For Social & Environmental Impact, January 2009, (94)
• Jose Ribeiro, “The price of the locomotive,” Jornal de Angola, 01/30/2011, (2)
• Catherine New, “Impacting Investing: A Better Way to Do Well by Doing Good,” AOL Original, 04/21/11, (2)

Social Impact Bonds

• David Chen, “Goldman to Invest in City Jail Program, Profiting if Recidivism Falls Sharpely,” New York Times, 08/02/2012, (03)
• Steven Lawrence and Reina Mukai, “Key Facts on Mission Investing, Foundation Center, October 2011, pp.4

Perpetuity

• “Spend Down Literature Review” 5/24/07.
• Heidi Waleson, “Beyond 5%,” Northern California Grantmakers, 5/25/07.

57
XI. WEDNESDAY, APRIL 2, 2014 – STRATEGY AND IMPACT MEASUREMENT

Study Questions:
1. What are some of the arguments for a wider understanding of how foundations achieve beneficial impacts on society through their grant making strategies?
2. How can such an understanding of foundation effectiveness be achieved? What are some of the ways foundations can more effectively and more persuasively tell their stories?
3. Are there political implications for effectively measuring the impact of foundations and publicizing those impacts?
4. Does the measurement of foundation impact through grant making affect the relationships between foundations and grantees?
5. To what extent does a focus on measuring impact tend to give incentives to foundations to make grants only for those efforts that are easily measurable?
6. Consider the various strategies foundations can employ in achieving their decided-upon goals. Also consider the range of tactics they can use in pursuing their strategies.

Required Readings (104 pages):
- Staff, “Four Essentials For Evaluation,” *Grantmakers For Effective Organizations*, 05/24/2012 (32)
- Paul Brest, “President’s Statement,” William and Flora Hewlett Foundation, 2004, (9)
- Alex Cortex, William Foster, and Katie Smith Milway, “Mergers can be a Tool for Charities in Tough Times,” *Chronicle of Philanthropy*, 12/11/08 (2)

Recommended Readings:
Tactical Issues in Grant Making

- Jamie Smith Hopkins, “Faster Grants Set For Charities,” *Baltimore Sun*, 11/15/07, (2)

Piloting New Initiatives v. Replicating Other Foundations’ Pilots


The Challenge of Achieving Reform in Particular Fields

- Celia Dugger, “Clinton Helps Broker Deal for medicine to Treat AIDS,” *New York Times*, 12/1/06, (2)
- Gene Steuerle, “An Ever More Charitable Society?” *The Urban Institute, Government We Deserve* commentaries, 10/2/2007, (2)

Conservative Foundations


International Grantmaking and Foreign Aid

- Ian Wilhelm, “American Grant Makers Seek to Deepen Their Involvement in China,” *Chronicle of Philanthropy*, 9/20/07, (2)
- Staff, “The Path Through the Fields,” *The Economist*, 11/03/12, (3)

Foundation Investment Policy and Mission Investing as Related to Foundation Mission and Programs


For Further Reading

- Paul Connolly, “Maximizing Foundation Effectiveness,” *TCC Group Briefing Paper*, 01/2008 (23)


Paul Brest and Hal Harvey, Money Well Spent, Bloomberg PR, Ch 1-2, 2008 pp.21 (42).


Carnegie Results, Carnegie Foundation of New York, Fall 2010.


The Center for Effective Philanthropy, “Beyond the Rhetoric: Foundation Strategy,” Cambridge, MA,


Foundations and Social Media

“Are Foundation Leaders Using Social Media?” The Foundation Center, September 2010.

Evaluation, Monitoring and Benchmarking

Joel L. Fleishman, “How Much is Enough? Foundation Grantmaking for International Benefit,” Address to the

- David Hunter, "Guide to Assessing Youth Development Program Quality and Effectiveness," *Edna McConnell Clark Foundation*, (8)

**New Practices**


**Particular Foundation Strategies**

XII. WEDNESDAY, APRIL 9, 2014 - ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS

4:30 P.M. FIRG SPEAKERS WEDNESDAY, APRIL 9, OLIVIA FARR AND GEORGE HATCH, BOARD OF TRUSTEES, THE JOHN MERCK FUND; RHODES CONFERENCE CENTER, 223 SANDFORD.

Study Questions:
1. What is the rationale for limiting or barring lobbying and advocacy by tax-exempt organizations?
2. What are the similarities and differences between the treatment of lobbying expenses by organizations subject to taxes and that by tax-exempt organizations.
3. Is there a difference between advocacy by private foundations and public charities, between foundation and grant-receiving money, between donor institutions and recipient institutions?
4. What's the rationale for forbidding non-profit organizations from participating in elections involving candidates for public office?
5. In view of the Citizens United case, which allows corporations to fund and support individual candidates, is there a good reason to change the law that forbids non-profits and foundations from using their assets in a similar way? If not, why not?
6. We will focus the discussion on the rules of non-profit lobbying as well as the restrictions to engaging in political activity in view of what you have read in The Blueprint.

Required Readings (146 pages):

- Fishman/Schwarz pp. 474-545 (71)
- Jonathan Salant, “The 2012 Election Will Cost $6Billion. This guy is why,” Bloomberg BusinessWeek, 10/3-10/9/2011, (4)
- Eric Lichtblau, “Policy Group Caught in Rift Over Direction,” 03/06/12, (3)
- Ruth Marcus, “The Super PACs in our future,” Raleigh News & Observer, 03/28/12 (1)
- Mat Bai, “How Much as Citizens United Changed the Political Game,” New York Times, 07/17/12, (6)
- Staff, “N.C. Republicans Claim Politicking by Liberal Nonprofits,” The Chronicle of Philanthropy, 07/19/2012 (1)
- “Joseph Tanfani et al, After winning right to spend, political groups fight for secrecy,” Los Angeles Times, 06/26/12, (2)
- Nicholas Confessore, “Inquiry Looks Into a Shield for Donors in Elections,” New York Times, 06/26/12, (3)
- Editorial Board, “PAC Attacks in IOWA,” New York Times, 01/03/12, (1)
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  - Burt Neuborne, "The First Amendment and Access to Congress: The Right of Nonprofit Organizations to Lobby"
  - Laura Brown Chisolm, "Political Advocacy Meets the Internal Revenue Code: 'There's Got to be a Better Way"
  - Catherine Rudder, "Beyond the Tax Code: Federal Restrictions on Lobbying by Nonprofit Organizations"
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Study Questions:
1. How well-founded is the charge that most not-for-profit organizations are not accountable to anyone?
2. Are there accountability differences among subsectors in the not-for-profit sector, as well as different kinds of organizations?
3. Are foundations more or less accountable than is the press? If so, to whom are they accountable?
4. What are the mechanisms that maintain accountability in the not-for-profit sector?
5. How effective are boards of directors of not-for-profit organizations in maintaining accountability?
6. What accountability mechanisms exist for decisions about where to focus not-for-profit resources and on grants awarded to particular grantees?
7. What criteria would you use to determine whether a decision to make a grant is wise or not? Suppose the decision is not wise: what would you do about it?
8. Should the government second-guess donor decisions as to whether tax-exempt funds are spent in accordance with some public interest or public purpose requirement?
9. What, if any, ought to be the role of government with respect to ensuring accountability?
10. What other conceivable accountability-enhancing mechanisms can be invented?
11. Which organization is more easily held accountable: "donor organizations" which give away money to other non-profits or "recipient organizations" which receive those moneys?
12. What role do trustees play in ensuring accountability in universities, art museums, hospitals, local dance companies, soup kitchens, church boards?
13. What motivates one to accept (seek?) a role as a trustee? What can one say about the best and worst kinds of motivations to such ends?
14. How do the accountability responsibilities of trustees and executives differ?
15. What are the differences between general accountability questions and major criticisms of foundation behavior (e.g., the allegedly "excessive" directors’ fees of the Duke Endowment and the Keck Foundation, the use of foundations as instruments to control privately held corporations, the taxation of unrelated business income, and the use of tax-exempt funds for political purposes)?
16. Can we formulate any appropriate rules for establishing salary levels for not-for-profit executives?
17. What can be done to facilitate the combination of organizations trying to achieve the same purposes? Are there lessons to be learned from the for-profit sector with respect to the encouragement of mergers as well as the discouragement of continued operations of organizations which are inefficient, ineffective or have outlived their usefulness?

* Pick a not-for-profit organization. Use the Internet to find its 990 form and Guidestar page. Be prepared to discuss the differences and shortcomings of each.

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- Marcus Owens, “Charity Oversight: An Alternative Approach (Draft),” Caplin & Drysdale,12/14/12 (17)
- Paul Brest and James Canales, “Let’s Stop Reinventing Potholes,” Chronicle of Philanthropy, 08/09/07 (2)

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• Robert Egger, “Charity Isn’t Cheap,” *Forbes*, 1/12/04, 36, (1)
• Lester M. Salamon and Stephanie L. Geller, “Executive Summary: Nonprofit Governance and Accountability,” Johns Hopkins University, 2005, i-ii, (2)

**For Further Reading**

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• Elizabeth Keating, “Creating an Electronic Nonprofit Funding Marketplace”, n.d. (10)
• Elizabeth Keating and Peter Frumkin, “Reengineering Nonprofit Financial Accountability: Toward a More Reliable Foundation for Regulation,” *Public Administration Review*, 01/15/03, (15)

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• Sam Kean, “Casting Ballots for Charity,” *Chronicle of Philanthropy*, 7/26/07, (6)

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• Suzanne Perry, “Donors Seek Better Charity Evaluations,” Chronicle of Philanthropy, 12/13/07, (1)
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• Rebecca Dube, “In the Wake of Arrests, Sephardic Group Touts Voluntary Reforms for Charities,” Forward, 8/28/2009, (3)

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• “Foundation Leaders Divided on Legislation: Supportive of Field-building Efforts,” The Foundation Center, October 2010, (3)
• Cheryl Loe, “Foundation Leaders Divided on Diversity Disclosure Legislation, Survey Finds,” The Foundation Center, 10/14/2010, (4)
• David Cay Johnson, “IRS Moves to Weed out Deadwood Charities,” New York Times, 11/12/07, (2)
• Rob Perez, “Hawaii’s Rules Lax on Oversight of Charities,” Honolulu Advertiser, 9/16/07, (6)
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