Course Description
This course examines the rationales, structures, and controversies related to nonprofit organizations and philanthropy in the United States. We will examine:

- The roles of nonprofit organizations as posited by economic, political, and historical vantage points;
- The legal purposes and framework of these organizations—including the advantages of the nonprofit form (e.g. whether tax-exemption is justified) and the restrictions on the type of commercial and political activity in which they can engage; and
- The controversies surrounding the nonprofit sector, with particular emphasis on the ethics of giving, the oversight roles played by boards of directors, state authorities, and federal regulators, and questions of accountability and performance.

Learning Outcomes
- Demonstrate an understanding of the legal structure of charitable organizations in the United States along with an appreciation of how theory and historical development have impacted these structures.
- Demonstrate an understanding of major ethical issues related to the nonprofit sector and be positioned to engage in current debates.
- Contribute a rigorous analysis of a particular legal, ethical, and/or governance issue impacting nonprofits.

John M. Bradley
Adjunct Professor of Law
john@broadfieldinsight.com
856-834-0506

Grading
The course grade will be based on an End of Course Paper (50%) + In-class Article Submissions (30%) + Class Participation (20%).

Paper: Write a 20 page research paper on an issue of your choice (subject to my approval). I am always happy to discuss possible topics. Due Monday, April ____.

In-class Article Submissions: Discuss two articles during selected classes over the course of the semester.
- One article must be from an academic source: a journal/law review article or book chapter. One article must be from a popular source, such as a news report.
- This is not a formal presentation; rather, you should identify an article that would enhance the discussion during two classes and lead a discussion. You should summarize salient points in the articles and pose relevant points and/or questions for the class to consider.
- The article should be emailed to me before or within a day after class; no submission written by the student is expected.

Class Participation: Class participation is a vital aspect of the course. To receive the maximum number of available points, you must meaningfully contribute to each class discussion.

**Required Texts**
The following texts should be purchased:
- **JAMES J. FISHMAN, STEPHEN SCHWARZ & LLOYD HITOSHI MAYER, NONPROFIT ORGANIZATIONS: CASES AND MATERIALS (5th ed. 2015).**¹
- **OLIVIER ZUNZ, PHILANTHROPY IN AMERICA: A HISTORY (2012).**

The following required texts are available free of charge online through Penn Libraries or directly posted on the Course Canvas. In choosing reading materials, I have sought to identify and use resources that are available free of charge to Penn students.
- **JAMES J. FISHMAN, STEPHEN SCHWARZ, LLOYD HITOSHI MAYER, STUDENT SUPPLEMENTAL UPDATE MEMORANDUM (Jan. 2018) [hereinafter STUDENT SUPPLEMENT 2018]. (Posted on Canvas.)**
- **GIVING WELL: THE ETHICS OF PHILANTHROPY (Patricia Illingworth, et al. eds. 2011),**
- Additional articles as indicated within syllabus.

¹ Please note that these authors have written another textbook. Don’t be confused and purchase the wrong one.
Week 1: The Purposes of Nonprofit Organizations: Historical and Legal Roots
- FISHMAN ET AL., Chapter 1, p. 3-4 (Introduction), p. 12-25 (Dimensions of the Nonprofit Sector).
- ZUNZ, Chapter 1, p. 8-43.

Week 2: The Purposes of Nonprofit Organizations: Theory
Legal Framework: Categorization and Form
- Purposes of Nonprofit Organizations
  o FISHMAN ET AL., Chapter 1, p. 25-33 (Rationales for the Nonprofit Sector)
  o ALEXIS DE TOQUEVILLE, DEMOCRACY IN AMERICA, Chapter 5, Of the Use Which the Americans Make of Public Associations in Civil Life. (Posted on Canvas).
  o Barbara Bucholtz, Reflections on the Role of Nonprofit Associations in a Representative Democracy, 7 CORNELL J. OF L. AND PUB. POL’Y 555, 571-78 (1998) (full article posted on Canvas).
  o Peter Dobkin Hall, Philanthropy, the Nonprofit Sector & the Democratic Dilemma, 142 DAEDALUS 139, 139-40 (through the paragraph starting with “Practical necessity...”) & 153-55 (Spring 2013), https://proxy.library.upenn.edu:3147/doi/pdfplus/10.1162/DAED_a_00209.
- Category and Form
  o FISHMAN ET AL., 33-48 (Legal framework, Formation).

Week 3: Legal Framework: State Law
Governance: Introduction
- State Law
  o FISHMAN, ET AL., 55-73 (Purposes, Powers, Limitations).
- Governance
  o FISHMAN, ET AL., 109-114 (Board of Directors).
  o William A. Brown, Exploring the Association Between Board and Organizational Performance in Nonprofit Organizations, 15 NONPROFIT MGMT. & LEADERSHIP 317 (Spring 2005).
Week 4: Governance: Fiduciary Duties
- FISHMAN, ET AL., 149-52, 155-79 (Duty of Loyalty).
- FISHMAN, ET AL., 181-84 (Duty of Obedience).

Week 5: Legal Framework: Federal Law
- FISHMAN, ET AL., 337-42 (Disaster Relief).
- FISHMAN, ET AL., 344-71 (The Public Policy Limitation).

Week 6: Legal Framework: Federal Law (con’t)
- FISHMAN, ET AL., 445-47 (Limitations on Lobbying and Political Campaign Activities—Background only).

PART II: SPECIFIC ISSUES

Week 7 The Ethics of Philanthropy
- Peter Singer, What Should a Billionaire Give—and What Should You?, in GIVING WELL, supra.

Week 8 The Law of Philanthropy
- FISHMAN, ET AL., 766-93.

Week 9 The Policies Impacting Philanthropic Giving
- FISHMAN, ET AL., 745-66.
- Zunz, p. 169-80.
Week 10: Trust and Scandals
- Deborah L. Rhode & Amanda K. Packel, *Ethics and Nonprofits*, STANDARD SOCIAL INNOVATION REVIEW (Summer 2009),
  https://proxy.library.upenn.edu:2072/docview/217165301/fulltextPDF/71E562167604CB3PQ/1?accountid=14707.
- FISHMAN, ET AL., 199-217.

Week 11: Charitable Solicitation

Week 12: Commercial Activities
- FISHMAN, ET AL., 527-62.

Week 13: Nonprofits and Political Advocacy
- ZUNZ, Chapter 3.
- FISHMAN, ET AL., 447-50 (through note 2); 463-64; 477-83 *(Regan v. Taxation With Representation of Washington)*; & 491-94.
- FISHMAN, ET AL., STUDENT SUPPLEMENT 2018, at 3-4 (“Note: Churches…”).

Part III: Final Thoughts and Questions

Week 14: Directions for the Nonprofit Sector
- ZUNZ, 294-99 *(Conclusion)*.
Other Notable Works (Not required reading. Read if you are interested or if it helps you write your paper).

- Elizabeth Ashford, *Obligations of Justice and Beneficence to Aid the Severely Poor*, in *Giving Well*, supra.