

THE LAW OF
NONPROFIT ORGANIZATIONS
Professor Jill Manny
Fall 2025

MATERIALS

Purchase the casebook entitled "Cases and Materials on Nonprofit Organizations, Sixth Edition,"¹ by Fishman, Schwarz, and Mayer, either in hardcopy or digital form. There is no need to purchase the companion 2021 Edition of the Statutes, Regulations, and Forms, because all statutes, regulations, and forms can be accessed online. In light of the recent enactment of the One Big Beautiful Bill, it is particularly important to read the Student Update Memo with respect to each assignment. Click on this [link](#) to access the Student Update Memo.²

ASSIGNMENTS (for the first four weeks of the semester)

August 27 and September 3 — Introduction

1. In the Casebook, read:

pp. 3 – 14, 17 – 19, 30 – 44, 287 – 295. Prepare a written outline of your answer to the Introductory Problem on p. 44 for your own reference during class discussion.

2. Read:

Code³ § 501(a), (b), (c)(1) – (29). Focus on § 501(c)(3) – (7); Other sections may be skimmed.

§ 170(a), (b), (c)

§ 508(a), (b), (c)

§ 7217

Form 1023, Application for Exemption Under Section 501(c)(3) of the Internal Revenue Code, (skim to determine what the IRS is interested in discovering); <https://www.irs.gov/pub/irs-pdf/f1023.pdf>. Compare to “streamlined” Form 1023-EZ, p. 1050; <https://www.irs.gov/pub/irs-pdf/f1023ez.pdf>.⁴

¹ Be sure to purchase this title and not “Taxation of Nonprofit Organizations” by the same authors.

² Read all sections of the Student Update Memo that correspond to the pages assigned for each class.

³ “Code” refers to the Internal Revenue Code. “Regulations” refers to the Treasury Regulations. The relevant Code and Regulations provisions generally can be found online.

⁴ Page references here are to the Statutory Supplement, but these items can be accessed online through posted links or will be posted on the NYU LMS Brightspace (“NYU Brightspace”). It is not necessary to purchase the Statutory Supplement in order to access these resources.

3. On the Web, briefly visit the following sites:

www.harvard.edu
www.vera.org
www.fordfound.org
www.nra.org
www.aclu.org
www.pga.org

Note the similarities and differences between the purposes and activities of the different organizations. If you were to group these organizations based on similarities, how might you group them? We may return to these web sites throughout the semester when we focus on (1) organizational purposes; (2) fundraising and corporate sponsorship activities; (3) compensation of officers and directors; (4) commercial activities; (5) lobbying and political activities.

4. Read the five articles posted on NYU Brightspace:

Robert B. Reich, *Is Harvard Really a Charity?*, L.A. Times, Oct. 2007, at A 13, <https://www.latimes.com/archives/la-xpm-2007-oct-01-oe-reich1-story.html> .

Gabriela Aoun Angueira & Thalia Beaty, *Can the IRS revoke Harvard’s tax-exempt status?*, AP News, Apr. 18, 2025, <https://apnews.com/article/harvard-nonprofit-tax-exempt-status-how-can-it-be-revoked-096614ea5ec65ec7a6ac08efd0f1e94f>.

Pierre Omidyar, *How I Did It: EBay’s Founder on Innovating the Business Model of Social Change*, HARV. BUS. REV., Sept. 1, 2011, <https://hbr.org/2011/09/ebays-founder-on-innovating-the-business-model-of-social-change>.

Matthew Haag & Meredith Kolodner, *‘The Untouchables’: How Columbia and N.Y.U. Benefit From Huge Tax Breaks*, N.Y. TIMES (Sept. 26, 2023), <https://www.nytimes.com/2023/09/26/nyregion/columbia-university-property-tax-nyc.html>.

Ellen P. Aprill & Lloyd Hitoshi Mayer, *Tax Exemption Is Not a Subsidy — Except for When It Is*, 88 EXEMPT ORG. TAX REV. 245 (2021), <https://www.taxnotes.com/exempt-organization-tax-review/exemptions-and-deductions/tax-exemption-not-subsidy-except-when-it/2021/10/01/7830q>.

September 8 — Organization Under State Law

1. In the Casebook, read:

pp. 49 – 81. Prepare a written outline of your answers to Problem 2 on pp. 62 – 63 for your own reference during class discussion.

2. Read (either online or on Brightspace):

Model Nonprofit Corp. Act (3d ed.): §§ 2.01-2.06, 3.01-3.02.
N.Y. Not-for-Profit Corp. Law: §§ 201, 202, 204, 404-406, 508, 515.
Cal. Corp. Code: §§ 5111, 5130, 5410.
Restatement of the Law Third, Trusts: § 28.
Sample Articles of Organization.
Sample ByLaws (skim).
Sample Charitable Trust (skim).

September 10 — Dissolution and Distribution of Assets

1. In the Casebook, read:

pp. 81 – 116. Prepare a written outline of your answers to Problems 1 and 5 on p. 100 and Problem 1 on pp. 104 – 105 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Restatement of the Law Third, Trusts, §§ 66 and 67.

September 15 and 17— Tax-Exempt Status; Charitable Requirement; Disaster Relief

1. In the Casebook, read:

pp. 359 – 364; 367 – 395. Prepare a written outline of your answers to Problems (a) and (b) on pp. 364 – 365 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Code: § 501(c)(3) [again].
Regulations: §§ 1.501(c)(3)-1(a), (b), (c); 1.501(c)(3)-1(d)(1), (2).

3. Read the two items posted on NYU Brightspace:

Letter from Secretary of Education to Harvard University, May 5, 2025, <https://www.harvard.edu/research-funding/wp-content/uploads/sites/16/2025/05/5.5.25-Harvard-Letter-from-EdSec-FINAL.pdf>.

Marie Sapirie, *Harvard Has a Precedent Problem in Fight to Keep Exempt Status*, 95 Exempt Org. Tax Rev. 298 (2025), <https://www.taxnotes.com/exempt-organization-tax-review/exempt-organizations/harvard-has-precedent-problem-fight-keep-exempt-status/2025/06/01/7s5wx>.

September 22 and September 24 — Private Inurement, Private Benefit, and Excess Benefit Transactions

1. In the Casebook, read:

pp. 449 – 480, 246 – 251 (through Note 1). Prepare a written outline of your answers to problems 1(a) – (e) and 2 on pp. 480 – 482 for your own reference during class discussion.

2. In the Statutory Supplement (or online), read:

Code: §§ 4958, 4960.

Regulations: §§ 1.501(c)(3)-1(c)(2).

3. Read the two items posted on NYU Brightspace:

Caitlin Mullaney, *Wyden Tees Up PGA-LIV Merger Investigation*, 92 EXEMPT ORG. TAX REV. 8 (2023), <https://www.taxnotes.com/exempt-organization-tax-review/exempt-organizations/wyden-tees-pga-liv-merger-investigation/2023/07/01/7gwbn>.

Pia Catton, *National Arts Club Cleans House*, Wall Street Journal, September 7, 2011.

Robin Pogrebin, *A Bonus From BAM Now Looks Less Wise*, N.Y. Times, Mar. 5, 2021, at C.1.

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September 29 and October 1 — Educational Organizations and Religious Organizations

1. In the Casebook, read:

pp. 396 – 414; 415 – 432. Prepare a written outline of your answers to the Problems on p. 415 and Problems (a) and (c) on pp. 432 – 433 for your own reference during class discussion.
2. Read:

Code: § 4968.
Regulations: §§ 1.501(c)(3)-1(d)(3).
3. On NYU Brightspace read:

David J. Herzig and Samuel D. Brunson, Opinion: White Supremacist Groups Don't Deserve Tax Exemptions, N.Y. Times, August 29, 2017.

Phillip Levine, *Should College Endowments Be Taxed?*, Brookings Inst. (Sept. 3, 2024), <https://www.brookings.edu/articles/should-college-endowments-be-taxed/>. (OPTIONAL)

October 6 and 8 — Healthcare and Miscellaneous Organizations

Healthcare Organizations

1. In the Casebook, read:

pp. 317 – 339. Prepare a written outline of your answers to and to Problems (a) – (c) and (e) on pp. 339 – 340 for your own reference during class discussion.
2. On NYU Brightspace, read:

Jill R. Horwitz, *Threatening Nonprofit Hospital Tax Exemption: A Better Path Forward*, 331 JAMA 469 (2024), available at <https://jamanetwork.com/journals/jama/article-abstract/2814254>.

Miscellaneous Organizations

1. In the Casebook, read:

pp. 347 – 353 and 433 - 440. Prepare a written outline of your answers to the Problems on pp. 354 and Problems (a) and (c) on pp. 440 – 441 for your own reference during class discussion.

2. Read:

Code: § 501(j).

Regulations: §§ 1.501(c)(3)-1(d)(1), (2).

October 13—Fall Break; No Class

October 15 — Commercial Activities

1. In the Casebook, read:

pp. 575 – 597. Prepare a written outline of your answers to Problems (a), (b), and (f) – (i) on pp. 597 – 598 your own reference during class discussion.

2. Read:

Code: § 502.

Regulations: §§ 1.501(c)(3) - 1(c)(1) and -1(e).

October 20 and 22 — Limitations on Lobbying

1. In the Casebook, read:

pp. 482 – 500. Prepare a written outline of your answers to all portions of the Problem on pp. 500 – 502 for your own reference during class discussion.

2. Read:

Code: §§ 501(c)(3), (4); 501(h); 504; 4911; 4912; 4955; 6033(b)(8).

3. On NYU Brightspace, read:

Jill S. Manny, *Nonprofit Legislative Speech: Aligning Policy, Law, and Reality*, 62 Case W. Res. L. Rev. 757 (2012). (OPTIONAL)

October 27– Limitations on Political Campaign Activities

1. In the Casebook, read:

pp. 502 – 542, 543 – 546. Prepare a written outline of your answers to all portions of the Problem on pp. 542 – 543 for your own reference during class discussion.

2. Read:

Code: §§ 501(c)(3), (4); 527; 4955.

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October 29– Limitations on Political Campaign Activities (date change from earlier syllabus)

1. In the Casebook, read:

pp. 502 – 542, 543 – 546. Prepare a written outline of your answers to all portions of the Problem on pp. 542 – 543 for your own reference during class discussion.

2. Read:

Code: §§ 501(c)(3), (4); 527; 4955.

November 3– Introduction to Private Foundations and their Alternatives

1. In the Casebook, read:

pp. 707 – 708, 711 (Foundations in Society) – 736 (through middle of the page), 742 – 745, 760 – 766. Prepare a written outline of your answers to problems 1(a) and (b) on pp. 745 – 746.

2. Read:

Code: §§ 507(d)(2); 509(a) – (e); 170(b)(1)(A)(i) - (vi); 4942(j).

November 5—Avoiding Private Foundation Status

1. In the Casebook, read:

pp. 747 – 758. Prepare a written outline of your answers to the Problem on pp. 758 – 759 **using all relevant tests** (§§ 170(b)(1)(A)(vi) and 509(a)(2)) for your own reference during class discussion.

2. Read:

Code: §§ 509(a) – (e); 170(b)(1)(A)(i) - (vi); 4946.

November 10— Private Foundation Excise Taxes

1. In the Casebook, read:

pp. 775 – 777, 778 – 792, 794 – 797, 803 – 808, 809 – 811, 812 – 821, ignoring all problem sets that are not specifically assigned. Prepare a written outline of your answers to Problems 1(a)-(g) and 2 on pp. 792 – 794, and Problems (b) – (e), and (i) on pp. 821 – 822 for your own reference during class discussion.
2. Read:

Code: §§ 4940; 4941; 4945; 4946.

November 12 and 17— Unrelated Business Income Tax

1. In the Casebook, read:

pp. 598 – 635. Prepare a written outline of your answers to Problems 1 and 2 on pp. 635 – 637 (excluding problem 1(d)).
2. Read:

Code: §§ 511(a), (b); 513(a), (c), (f), (h), (i).
Regulations: § 1.513-4.
3. On Brightspace read:

Ruth La Ferla, *The Artist's Fall Collection*, N.Y. TIMES, Nov. 8, 2007.
4. On the Web, visit www.metmuseum.org/store (or go to a Metropolitan Museum of Art shop or the shop of another cultural institution). Think about sales of which items might generate unrelated business income.

November 19—Exclusions from UBTI

1. In the Casebook, read:

pp. 637 – 643; pp. 652 – 658. Prepare a written outline of your answers to Problem 1(a) – (d) on p. 643 – 644 for your own reference during class discussion.
2. Read:

Code: § 512(a), (b)(1)-(5), (7) - (9), (13), (15)

November 24—Corporate Governance

1. On Brightspace, read:

Michael Klausner & Jonathan Small, *Failing to Govern? The Reality of Nonprofit Boards*, STAN. SOC. INNOVATION REV., Spring 2005, at 42.

IRS, Good Governance Practices.

2. In the Casebook, read:

pp. 123 – 129, 135 – 160, 167 – 170, 175 (Notes) – 188, 194 – 199 (through “Duty of Obedience” paragraph). Prepare a written outline of your answers to the Problem 1(a), (b), and (c) on pp. 160 – 161, the Problem on p. 187, and Problems (a)-(c), (g), and (h) on pp. 197 – 198 for your own reference during class discussion.

3. On Brightspace link, review:

Form 990. Focus on Part VI, Governance, Management, and Disclosure.

November 26—Private Foundations General Counsels Panel

We will not meet on November 26. Instead, a taped Private Foundations General Counsel Panel (September 30, 2024) will be posted to Brightspace on November 24, along with bios of the participants.

Panelists:

Sasha Abrams: Gordon and Betty Moore Foundation; General Counsel and Secretary to the Board

Ricardo Castro: Robert Wood Johnson Foundation, Vice president, General Counsel, and Secretary

Nishka Chandrasoma: Ford Foundation, Vice President, General Counsel, and Secretary

Jillian Diamant: Pivotal Ventures (Melinda Gates), Senior Vice President and General Counsel

December 1 —TBA