**SYLLABUS**
**Nonprofit Organizations**
**Law 541**

**Spring 2026**

**Administrative Information:**

1. My office is in Room 2192 and my email is foster@law.duke.edu.
2. I am generally at the Law School Monday – Friday; always feel free to stop by my office.
3. Except for January 15, February 19, March 19, and April 16, I will hold regular office hours on Thursdays from 3:30 p.m. – 5:00 p.m. If you want to meet at a different time, please email me to set up an appointment.

**General Course Information:**

1. Class will meet Mondays and Wednesdays from 8:55 to 10:20 a.m. in Room 4042.
2. The required casebook is Fishman, Schwarz & Mayer, Nonprofit Organizations, 6th ed. You are free to use a digital version of the casebook if you prefer **but please note that the final exam will be closed format so if you want to have access to the casebook during the exam, you should purchase the physical version either with or without access to the digital version**.
3. The casebook authors have also compiled a supplement containing statutes, regulations, and forms. The casebook contains cross-references to the relevant portions of the statutes, regulations, etc., and you will likely find it important to consult those references as we go along, particularly the tax statutes and regulations. These are all publicly available, however. As a result, this supplement is completely optional.
4. I will likely post additional readings to Canvas that relate to the materials we will cover this semester. Unless specifically assigned in the syllabus, these readings are optional.
5. We will follow the schedule set out in this syllabus as much as possible, but please be prepared to be flexible and I'll be as clear as I can if we are going to deviate from the syllabus in any significant way.
6. Class will be conducted as a mixture of Socratic method, lecture, small group work and open discussion. Active, thoughtful comments are always welcome, whether or not you have been called on, and whether or not you are sure you have the "right" answer.
7. I will circulate a seating chart and ask that you sit in the same seat for each class.
8. Classes **will not** be recorded. If you need to miss class for any reason, please feel free to come to office hours or schedule a time with me to discuss the materials.

**Presentations:**

1. Working in teams of two, you will select a particular nonprofit organization that you will research over the course of the semester and about which you will make a presentation to the class.
2. These presentations should be approximately 10-15 minutes long and will be made in class during the final week of the semester.
3. We will discuss this in more detail throughout of the semester, but some general dates to keep in mind: (a) form your teams by January 23, (b) select your nonprofit organization by February 6 and share it with me for approval, (c) share your research plan with me for

feedback by February 27, (d) share the rough draft of your presentation with me by March 27; and (e) post the final versions of your presentations to Canvas by April 10.

4. Please review all the presentations in advance and come prepared with questions for your classmates.

**Grading:**

1. This class is three credits and is graded according to the Law School's 3.5 median.
2. The grade in the course will be determined largely by your performance on the final exam, but modest upward adjustments for outstanding class participation may be made.
3. You may also earn participation points outside of class. If you encounter an article or news story that relates to an issue we are discussing, and send me the link or a PDF along with a brief (i.e., 1-2 paragraph) discussion of the relationship of the article to our materials no later than 12 p.m. on the day before class, I will add one point to your raw exam score. You may do this up to five times during the semester, for a possible total of five points added to your raw exam score. You may earn no more than one point per week, and no materials may be submitted after our last class session.

**Learning Objectives:**

My goal is that by the end of the course you will:

1. Understand the context of, rationales for, and alternatives to the U.S. charitable sector;
2. Understand and be able to apply the essential substantive and procedural tax law doctrine, concepts and practices related to the most common types of tax-exempt organizations, particularly, those which are exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
3. Understand the most common corporate law and governance issues relevant to nonprofit corporations;
4. Be familiar with typical charter documents and the federal tax-exempt application, and understand the critical issues and decisions related to each of these; and
5. Develop a realistic understanding of the kind of work young lawyers in the EO sector do, as well as an overview of different career paths in the sector.

**Class meeting/reading schedule:**

Section 1: <u>Introduction</u>

Classes 1 and 2

Read: <u>Casebook</u>, pp. 3-14 and 17-44

<u>Canvas</u>, President Trump's Executive Orders Impacting the Nonprofit Sector (chart)

We will cover these materials in our first two classes. You can read these at your convenience over this week, and the information included in this assignment provides background and context much of the rest of the semester. For me, this kind of material provides the framing I need to understand the specific laws, regulations, cases and policies that we will study over the next several weeks. As a result, I would read it very closely. I know that for others, this kind of background material is not as useful. If you are the kind of learner who doesn't need to do more than skim this, feel free. <u>That said, I do strongly recommend that everyone read at least</u>

pages 5-14, 17-19, and 26-35 closely and review the chart outlining the Executive Orders issued by President Trump impacting the nonprofit sector.

Section 2: Nonprofit Corporate Law: Formation through Dissolution

A. Class 3: Choice of Entity
Read: Casebook, pp. 49-63

B. Class 4: Formation and Purpose
Read: Casebook, pp. 63-81
Canvas, Review and prepare to discuss **Stella's Bakery**

C. Class 5: Restructuring and Dissolution
Read: Casebook, pp. 81-95 (stop after Note 1), 101-116 (stop at Section F)
Canvas, Review and prepare to discuss **PILF Law**
On your own: find N.C.G.S Chapter 55A Articles 11, 12 and 14. You can mostly skim these, but please review N.C.G.S. 55A-12-02 carefully

Section 3: Nonprofit Corporate Law: Governance and Operational Issues

A. Class 6: Board Responsibilities and Fiduciary Duties
Read: Casebook, pp. 135-138, 146-160 (but skip note 2 on page 152 and you can skim the remainder of the notes starting with note 7 on page 155), 167-170, 177-185 (stop after note 3), 198-201

B. Class 7: Investment Responsibility & Enforcement of Fiduciary Duties
Read: Casebook, pp. 201-214, 216-218 (notes 3 & 4), 224-237
Canvas, Review and prepare to discuss **Healthy Community Hospital**

C. Class 8: Issues in Governance and Operations (September 15)
Read: Canvas, BoardSource, "The Source[12]"
Articles of Incorporation (Form)
Bylaws (Form)
Review and prepare to discuss **The Durham STEM Academy I**

Section 4: Charitable Tax Exemption: Affirmative Requirements

A. Class 9: Rationale, Procedural Matters, Meaning and Scope of Charity
Read: Casebook, pp. 287-289 (stop after note 1), 307-313, 553-557, 313-317

B. Class 10: Hospitals and Health Care
Read: Casebook, pp. 317-340 including note 4 and problems on 339-340, but skim notes 1-3 and 5-9 on pp. 331-339

C. Class 11: Educational Organizations
Read: Casebook, pp. 396-415

D. Class 12: Religious Organizations
   Read: Casebook, pp. 415-433

E. Class 13: Public Interest Litigation; Environmental Protection
   Read: Casebook, pp. 340-347; 354-359

Section 5: Charitable Tax Exemption: Conditions and Limitations

A. Class 14: Inurement, Private Benefit and Intermediate Sanctions
   Read: Casebook, pp. 449-480, please read 458-465 and 468-480 most carefully (stop at Problems)
   Canvas, Review and prepare to discuss **CORE Services Group**

B. Classes 15 and 16: Limitations on Lobbying and Political Activities
   Read: Casebook, pp. 482-495, 502-550
   Canvas, Rev Rul 81-95 and Review and prepare to discuss **Durham STEM Academy II**

   Note: we will cover these materials over two classes. You are free to do the assigned reading as you prefer, but my recommendation is that you skim all the assigned materials prior to our first class and I will go over them in some detail that day. For the second class, review the Durham Stem Academy II problem and then review the readings in greater depth, as needed, to prepare the problem for discussion.

C. Classes 17 and 18: Discrimination and Exempt Organizations
   Read: Casebook, pp. 367-387, 1019-1031
   Canvas, Rev Rul 77-272, *AAER v. Fearless Fund* (11th Cir), Amicus Brief of Council on Foundations and the Independent Sector (*Fearless Fund*)

   Note: we will cover these materials over two classes. I recommend that you read at least the materials from the casebook in advance of Class 16. This is an active area of the law and I may adjust the readings or class plan if current developments warrant.

Section 6: Commercial Activity and UBIT

A. Class 19: Commercial Activity and Nonprofits
   Read: Casebook, pp. 575-598

B. Class 20: Unrelated Business Income Tax
   Read: Casebook, pp. 598-608, 626-629
   Canvas, Rev Rul 73-127 and 73-128

Section 7: <u>Private Foundations and Charitable Giving</u>

A. Class 21: Charitable Contributions
   Read: <u>Casebook</u>, pp. 825-827, 836-842, 850-866

B. Class 22: Public Charities, Private Foundations and Donor Advised Funds
   Read: <u>Casebook</u>, pp. 707-708, 725-740

C. Class 23: PRIs and Impact Finance
   Read: <u>Casebook</u>, pp. 809-811
   <u>Canvas</u>, PRI Primer, Review and prepare to discuss <u>**The Good Ground Initiative**</u>

Section 8: <u>Presentations</u>

Classes 24 – 26: Presentations