

## Syllabus

PUBPOL 559S.01; LAW 585

Philanthropy, Voluntarism and Not-For-Profit Law and Management

Department of Public Policy Studies and the School of Law  
Duke University

Spring Semester, 2013  
Wednesdays, 8:30 a.m. until 11:00 a.m.

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:**

James Fishman and Stephen Schwarz, Nonprofit Organizations: Cases and Materials, 4th ed. Foundation Press, 2010.  
Brian O'Connell, ed., America's Voluntary Spirit: A Book of Readings. The Foundation Center, 1983.  
Jim Collins, Good to Great and the Social Sectors: A Monograph to Accompany Good to Great. Jim Collins, 2005.

Most required readings, except for Fishman/Schwarz, O'Connell, and Collins, will be available on the course Sakai site. The items listed "for further reading" are not assigned. I am providing the further readings 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 us 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](mailto:joel.fleishman@duke.edu). Jake Reeder and Jamie Attard, the teaching assistants 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](mailto:jake.reeder@duke.edu) or at 434-249-0502. Jamie can be reached at [jamie.attard@duke.edu](mailto:jamie.attard@duke.edu) or at 919-949-1925. If you wish to make an appointment with me, please call Pam Ladd, my assistant, at 613-7376. I am reliably available in my office at Duke, Room 239 of the Sanford Institute on Wednesdays.

The World Wide Web is a rich source for information concerning philanthropy. In addition to the occasional reading additions that will appear on the course Sakai site mentioned above, the site also has a collection of numerous links to websites important in the nonprofit sector. Please take time to explore these websites throughout the semester.

Also, the Chronicle of Philanthropy will be distributed throughout the semester for you to browse. During class, I will identify articles of primary importance, identifying trends or major events occurring in the philanthropic world.

### **GENERAL RECOMMENDED READINGS (not required)**

- Tom Tierney and Joel Fleishman, Give Smart: Philanthropy that Gets Results, Public Affairs, 2011.
- Olivier Zunz, Philanthropy in America, A History, Princeton University Press, 2011
- Leslie R Crutchfield, John Kania and Mark Kramer, Do More Than Give: The Six Practices of Donors Who Change the World, Jossey-Bass, 2011
- Claire Gaudiani and David Burnett, Daughters of the Declaration – How Women Social Entrepreneurs Built the American Dream, Public Affairs New York, 2011.
- Laura Arrillaga-Andreessen, Giving 2.0 – Transform Your Giving And Our World, Jossey-Bass, 2012.
- Patricia Illingworth, Giving Well: The Ethics of Philanthropy, Oxford University Press, 2011.
- Paul C. Light, The Search for Social Entrepreneurship, Brookings Institute Press, 2008.
- Paul C. Light, The Four Pillars of High Performance: How Robust Organizations Achieve Extraordinary Results, McGraw-Hill, 2005.
- Ray Bacchetti and Thomas Ehrlich, eds., Reconnecting Education & Foundations: Turning Good Intentions into Educational Capital, San Francisco: Jossey-Bass, 2007.
- Matthew Bishop and Michael Green, Philanthrocapitalism: How the Rich Are Trying to Save the World, Bloomsbury, 2008.
- Elizabeth T. Boris and C. Eugene Steuerle, Nonprofits and Government, 2d ed., Urban Institute Press, 2006.
- David Bornstein, How to Change the World: Social Entrepreneurs and the Power of New Ideas. Oxford University Press, 2004.
- Paul Brest and Hal Harvey. Money Well Spent, Bloomberg Press, 2008.
- Arthur C. Brooks and James Q. Wilson, Who Really Cares: The Surprising Truth about Compassionate Conservatism -- America's Charity Divide—Who Gives, Who Doesn't, and Why It Matters, Basic Books, 2007.
- Leslie Crutchfield and Heather McLeod Grant, Forces for Good: The Six Practices of High-Impact Nonprofits, New York: Jossey-Bass, 2007.
- Joel Fleishman, The Foundation: A Great American Secret. New York: PublicAffairs Books, 2009 (paperback).
- Marion Fremont-Smith, Governing Nonprofit Organizations: Federal and State Law Regulation, Harvard University Press, 2004.
- Peter Frumkin, Strategic Giving: The Art and Science of Philanthropy. University of Chicago Press, 2006.
- Christopher Gergen and Gregg Vanourek, Life Entrepreneurs: Ordinary People Creating Extraordinary Lives, Wiley, 2008.
- Giving USA 2010: The Annual Report on Philanthropy for the Year 2008. AAFRC Trust for Philanthropy, and Indiana Center for Philanthropy.
- Paul Light, The Search for Social Entrepreneurship, Brookings Institute Press, 2008.
- Dan Pallotta, Uncharitable: How Restraints on Nonprofits Undermine Their Potential (2008).
- Walter W. Powell and Richard Steinberg, The Nonprofit Sector: A Research Handbook, Yale University Press, 2006.
- David Bornstein and Susan Davis, Social Entrepreneurship: What Everyone Needs to Know, Oxford University Press, 2010.
- Joe & Carol Reich, Getting To Bartlett Street, February Books, 2012
- David Bornstein, How to Change the World: Social Entrepreneurs and The Power of New Ideas, Penguin Books, 2005
- Mario Morino, Leap of Reason: Managing to Outcomes in an Era of Scarcity, Venture Philanthropy Partners, 2011
- Rob Witwer, The Blueprint: How the Democrats Won Colorado, Fulcrum Publishing, Inc. 2010.
- Mary Brown Bullock, The Oli Prince's Legacy: Rockefeller Philanthropy in China, Woodrow Wilson Center Press, 2011

### **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 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 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 in the midst of 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 that question 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 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 a more rapid distribution to society of foundation assets than the usual minimum payout of 5% of 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 assigned 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 the seminar, which relies heavily on class attentiveness and discussion.

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. Five weekly papers, of not more than five pages double-spaced, are required, beginning with the second class. As your paper is intended to help you frame the readings of the week, it must be submitted in time for me to correct it and return it 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](mailto:joel.fleishman@duke.edu) **by 4:00 p.m. on the Sunday before class as Word attachments only.** I will correct them and return them to you, graded, at class the following Wednesday, with detailed comments on grammar, syntax, style, and usage.

For all sessions except as 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 spend the first part of the five class sessions for which papers are required in discussing writing transgressions frequently committed, 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](mailto:joel.fleishman@duke.edu) **by 4:00 p.m. on or before Sunday, April 28<sup>th</sup>.** 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 be one 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 or returns 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. What topic you choose 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 published on the Duke Foundation Research Program's website (<http://cspcs.sanford.duke.edu/>) for brief analyses of past foundation initiatives to spark your thinking. 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.

One of the topics on which I am currently working relates to foundations that have limited lives, that is the intended, gradual giving away of assets and income until none is left. To date, my colleagues Tony Proscio, Barry Varela and I have identified 80 such foundations which have completed 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 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 do 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. 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 DO 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 6<sup>th</sup>, 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.

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# CHRONOLOGY

## I. WEDNESDAY, JANUARY 16, 2013 -- 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, 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, improperly shape 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?
3. How effectively 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 the public interest?
4. Should the minimum private foundation five-percent annual pay-out requirement be increased, and, if so, to what level?
5. Should financial services companies be restricted in creating public charities that compete with community foundations?
6. What are the arguments for and against placing a ceiling on 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 of foundations and other not-for-profits to the public?
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 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: (32 Readings – 130 Total 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 Bornstein, "Politics and Social Entrepreneurs," *Dowser*, 4/23/2012, (2)
- Nicholas Confessore, "Policy-Making Billionaires," *New York Times*, 11/26/11, (4)
- David Kocieniewski, "A Family's Billions, Artfully Sheltered," *New York Times*, 11/26/11, (8)
- David Brooks, "Sam Spade at Starbucks," *New York Times*, 4/12/12, (3)
- 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)
- Kim Meredith, "2012 Letter," *Stanford Social Innovation Review*, 1/23/12 (4)
- "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)
- Nicholas Carnes, "Which Millionaire Are you Voting For?," *New York Times*, 10/12/12, (3)
- Olivier Zunz, "Philanthropy by the Rest of Us," *New York Times*, 12/22/11, (2)
- Samuel Freedman, "Loans Without Profit Help Relieve Economic Pain," *New York Times*, 12/2/11, (3)
- Ruth McCambridge, "An Important Study of High Net Worth Women and their Giving – What do you Think of the Implications," *The Nonprofit Quarterly*, 12/12/11, (3)
- 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)
- Kriss Deiglmeier, "Social Purpose Business, An International Perspective," *Stanford Social Innovation Review*, January 2012, (3)
- Walter Isaacson, "The America Ben Franklin Saw," *The Washington Post*, 11/22/12, (2)
- 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)
- William Foster and Susan Wolf Ditkoff, "When You've Made Enough to Make a Difference," *Harvard Business Review*, January 2011, (8)
- Bob Herbert, "Winning the Class War," *New York Times*, 11/26/10, (3)
- Nick Bunkley, "Debt Rising, a City Seeks Donations in Michigan," *New York Times*, 11/19/10, (2)
- James Gallagher, "Stalled Economy Offers Nonprofits Fiscal Pain," *Triangle Business Journal*, 10/29/10, (1).
- William D. Cohan, "The Power of Failure," *New York Times*, 11/26/10, (2)
- The Foundation Center, "2009 Saw Record Decline in Foundation Giving – Giving Likely to Remain Flat in 2010 and 2011," 4/16/10, (2)
- Ron Lieber, "Colleges Are Not Going Hungry, But Are In Need," *New York Times*, 11/29/08, (3).
- Stephanie Strom, "Wall St. Fraud Leaves Charities Reeling," *New York Times*, 12/16/08, (3).

#### **For Further Reading**

- Elizabeth T. Boris and C. Eugene Steuerle, Nonprofits and Government, 2d ed., Urban Institute Press, 2006, 1-76, (79, double = 39).

## II. WEDNESDAY, JANUARY 23, 2013 – GOVERNANCE STANDARDS, PERFORMANCE SHORTCOMINGS, AND SCANDALS IN THE NOT-FOR-PROFIT SECTOR

**Topic for Paper Due on Sunday, January 20, 4:00 p.m.:** Discuss the major cases included in the assigned casebook readings (*Fitzgerald v. NRA* [p. 129-134], *Pepperdine* [p. 137-142], *Lynch v. John M. Redfield Foundation* [p.142-145], *Stern v. Lucy Webb Hayes* [p.145-150, 171-178], *Nixon v. Lichtenstein* [p 166-171], *Adelphi v. Diamandopoulos* [p. 178-184], *Northeast Harbor Golf Club, Inc. v. Nancy Harris* [p. 190-195], and *Herzog Foundation v. University of Bridgeport* [p.232-237]), and criticize and synthesize their holdings.

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 that way. 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 shortcomings in performance. How can we best understand the reasons for these shortcomings and formulate effective policies and penalties to diminish those shortcomings?
2. Is it a scandal for the American Red Cross to decide to use for purposes other than victim relief some of the funds donated to the Liberty Fund?
3. Do recent scandals or abuses by not-for-profit organizations (e.g., Adelphi University, Bishop 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 are 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*.

### **Required Readings:** (24 Readings – 168 Total Pages)

- Fishman/Schwarz, pp. 129-158; 163-184, 190-196, 232-237 (64)
- Nina Bernstein, "Hospitals Flout Charity Aid Law," *New York Times*, 2/12/12, (4)
- Diana Henriques, "Broken Trust in God's Country," *New York Times*, 2/25/12, (9)
- John Leland, "After ugly Public Spat, Elite Arts Club Votes to Banish Its Ex-President," *New York Times*, 2/12/12, (1)
- Suzanne Perry, "Lack of Serious Oversight of Charities Undermines Public Trust," *The Chronicle of Philanthropy*, 11/1/12, (2)
- Donald Haider & Franz Wohlgezogen, "Change Comes at a Cost," *Stanford Social Innovation Review*, Winter 2012, (6)
- "Earthly Concerns," *The Economist*, 8/18/12, (13)
- "UK Board to Probe Aggressive Street Fundraising," *The Chronicle of Philanthropy*, 6/26/12, (1)



- “Fleecing the Flock,” *The Economist*, 1/28/12 (2)
- Linda Lampkin, “High pay for Nonprofit Execs? Analysis of 100,000 salaries,” *Blue Avocado*, 6/4/12, (3)
- Reed Abelson and Julie Creswell, “Hospital Chain Inquiry Cited Unnecessary Cardiac Work,” *New York Times*, 8/6/12, (8)
- Peter Panepento, “Nonprofit Groups Failed to Pay \$1 Billion in Employment and Other Taxes Report Says,” *The Chronicle of Philanthropy*, 7/24/2007, (3).
- 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)
- Russ Buettner, “Reaping Millions in Nonprofit Care for Disabled,” *New York Times*, 8/2/11, (9).
- Rick Cohen, “Decline and Fall of the Vanguard Foundation,” *Blue Avocado*, 08/03/10, (6).
- Jessi Hempel, “When Charity Begins at Home,” *Business Week*, 11/8/04, (1).
- Pablo Eisenberg, “Keeping Greed Out of Philanthropy,” *Chronicle of Philanthropy*, 8/19/04, (4).
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### III. WEDNESDAY, JANUARY 30, 2013 - DONOR MOTIVATION AND DONOR INTENT: THE GREAT PHILANTHROPISTS IN THEIR MAKING AND GIVING OF MONEY, AND THE AVERAGE AMERICAN

4:30PM FIRG GUEST SPEAKER: BRAD K. SMITH – PRESIDENT, FOUNDATION CENTER, RHODE CONFERENCE CENTER, 223 SANFORD.

**Topic for Paper Due on Sunday, January 27, 4:00 p.m.:** Analyze and assess Andrew Carnegie's "Gospel of Wealth." Compare and contrast the views, motivations and practices of Carnegie with those of any one of the living philanthropists—such as Warren Buffett, George Soros, Richard Mellon Scaife, Eli Broad, Ted Turner and Bill Gates--as described in the "further readings" below. You may browse [http://www.businessweek.com/interactive\\_reports/philanthropy\\_individual.html](http://www.businessweek.com/interactive_reports/philanthropy_individual.html) for *Bloomberg Business Week's* annual survey of articles on the nation's biggest donors for an additional reference.

#### **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:** (36 Readings - 168 Total Pages)

#### Philanthropists

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- Michael Wines, "Chinese Attitudes on Generosity Are Tested," *New York Times*, 09/23/10, (3).
- Emily Wax, "India's Growing Wealth Boosts Charitable Giving," *Washington Post*, 11/01/10, (3).
- Erika Kinetz, "Indian Mogul Gives \$2 Billion for Education, Country's Largest Lump Sum Donation in Modern Era," *Huffington Post*, 12/29/10, (3)
- Catherine Hickley, "SAP Founder Plattner Donates \$30 Million for Potsdam Schloss," *Bloomberg*, 11/27/07, (1).
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- Winnie Hu, "Decades Later, Carnegie Still Invests in Knowledge," *New York Times*, 8/26/99, pp.A18.

#### IV. WEDNESDAY, FEBRUARY 6, 2013 – THE DISTINCTIVENESS AND DIMENSIONS OF THE US NOT-FOR-PROFIT SECTOR

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

**6:30PM BUFFET DINNER HONORING CHRIS NELSON AT PROFESSOR FLEISHMAN'S HOME. ALL MEMBERS OF THE CLASS WILL BE INVITED.**

**Note that there is no paper assignment due for this session:** However, please consider the following question for discussion in class.

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? Or should it target whatever issues their managers and founders choose? Should tax exempt status be 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:**

1. 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?
2. How does it differ from, as well as most effectively relate to, the for-profit and public sectors?
3. What roles do philanthropy and volunteerism properly play in it?
4. What do we mean by "civil society," and how, if at all, does it differ from what we mean by "not-for-profit sector"?
5. What are the most pressing challenges facing the not-for-profit sector today?
6. What is the meaning of civic engagement and what role does the not-for-profit sector play in facilitating it?
7. How do the events of September 11 complicate or motivate the achievement of civic engagement?
8. How much emphasis should charitable donors give to charities for the needy as compared with other charities?

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- Stephanie Strom, "Philanthropists Start Requiring Management Courses to Keep Nonprofits Productive," 7/29/2011, (2)
- "Foundation Leaders Address the State Budget Crises," *Foundation Center*, September 2011, (4).
- Katie Roeger, *The Nonprofit Almanac 2012*, Ch. 1, The Urban Institute Press, 2012, 1-29. (29)
- Philip Gourevitch, "Alms Dealers," *New Yorker*, 10/11/10, (7)
- Geraldine Fabrikant, "For Yale's Money Man, a Higher Calling," *New York Times*, 2/18/07, (7).
- "Converting Donations and Good Intentions Into Meaningful Charity," *Letter to the Editor: Wall Street Journal*, 4/13/07, (2).
- Meghan Daum, "The Overshadowing 'I' in Charity Today," *Los Angeles Times*, 7/30/07, (2).
- Katie Zezima, "Food Banks, in a Squeeze, Tighten Belts," *New York Times*, 11/30/07, (3).
- Stephanie Strom, "Big Gifts, Tax Breaks And a Debate On Charity," *New York Times*, 9/6/07, (5).
- Zachary M. Seward, "Rich Alumni Stiff Elite Alma Maters, Give to Needier Colleges," *Wall Street Journal*, 8/28/07, (3).
- "Is Giving to Harvard Charity," *The Wall Street Journal*, 10/9/07, (1).
- Robert B Reich, "Is Harvard a Charity," *Los Angeles Times*, 10/1/07, (2).
- "Philanthropy's Awareness Deficit," PAI Digest on Harris Interactive survey findings, 4/22/08, (12).
- Stephanie Strom, "Report Says Charities Would Be Lacking in a Big Disaster," *New York Times*, 9/18/08, (1).
- Peter Panepento, "Nonprofit Workers Fall Short in Retirement Savings," *Chronicle of Philanthropy*, 2/8/07, (2).
- Peter Panepento, "Too Little Charity Goes to the Needy, Congress Told," *Chronicle of Philanthropy*, 10/4/07, (2).
- Suzanne Perry, "New Tally Shows Charity Role," *Chronicle of Philanthropy*, 10/4/07, (1).
- Aili McConnon, "Charities Go Begging," *Business Week*, 10/6/08, (2).
- Reina Mukai, "Foundation Yearbook: Facts and Figures," *Foundation Center*, 7/21/2009, (1).

#### **Nonprofit Capital Markets**

- Elizabeth Keating, "Creating an Electronic Nonprofit Funding Marketplace," Hauser Center, Harvard University, (10).

### Giving While Living

- Liz Skinner, "Fewer Clients Waiting Till Death to Part with Charitable Dollars," *Investment News*, 10/1/07, (2).
- "31% of Donations by Individuals Benefit the Poor, Study Finds," *The Chronicle of Philanthropy*, 7/26/07, (2).
- Mindy Fetterman, "'Giving While Living' Alters Inheritances," *USA Today*, 8/23/07, (6).

### IRS Oversight

- Ben Gose, "IRS Official Says Tax Agency May Step Up Efforts to Identify Ineffective Charities," *The Chronicle of Philanthropy*, 11/12/07, (2).
- 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

- "U.S. Charitable Giving estimated to be \$307.65 billion in 2008" Press Release: Giving USA Foundation, 6/10/09, (5).

### Warren Buffett Gift to the Bill and Melinda Gates Foundation

- Warren Buffett, letter to Bill and Melinda Gates, June 26, 2006, available at <http://www.berkshirehathaway.com/donate/bmgfltr.pdf>, (2).
- Timothy L. O'Brien and Stephanie Saul, "Buffett to Give Bulk of Fortune to Gates Charity," *New York Times*, 6/26/2006, A1, (2).
- Donald G. McNeil Jr. and Rick Lyman, "Buffett's Billions Will Aid Fight Against Disease," *New York Times*, 6/27/2006, A1, (3).
- Jeff Bailey, "Buffett Children Emerge as a Force in Charity," *New York Times*, 7/2/2006, A1, (4).
- "Billanthropy," *Economist*, 7/1/2006, (2).
- Daniel Gross, "Giving it Away, Then and Now," *New York Times*, 7/2/2006, C1, (2).
- John Hechinger and Daniel Gordon, "The Great Giveaway—Like Warren Buffett, a New Wave of Philanthropists Are Rushing to Spend Their Money Before They Die," *Wall Street Journal*, 7/8/2006, A1, (6).
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- Andrew Jack, "Manna from Omaha: A Year of 'Giving While Living' Transforms Philanthropy," *Financial Times*, 12/27/2006, 11, (3).

### Former Soviet Union Regulation of Non-Government Organizations

- Steven Lee Myers, "Putin Defends Reining in Private Groups," *New York Times*, 11/25/05, (2).
- Peter Finn, "Revised Russian Bill Governing NGOs Fails to Mollify Critics," *Washington Post*, 12/22/2005, A21, (2).
- C.J. Chivers, "Kremlin Puts Foreign Private Organizations on Notice," *New York Times*, 10/19/2006, A8, (2).
- Steve Gutterman, "Head of U.S.-Funded Group Fled Russia," *ABC News*, 6/29/07, (2).
- "Lukashenko to Shut Down NGOs Funded by the US," *St. Petersburg Times*, 7/20/07, (1).

### For Further Reading

- Nick Miroff, "Charitable giving in short supply in Mexico," *Washington Post*, 8/13/11, pp.3
- Hillary Belzer, "Report on the Listening Post Project's Nonprofit Innovations Webinar," June 2011, (3)
- "The Nonprofit Research Collaborative," Foundation Center, September 2011, (36).
- "Community Foundation Giving Jumps 14 Percent, New Foundation Center Report Finds," Press Release: Foundation Center, 5/20/08, (1).
- Janelle A. Kerlin and Supaporn Thanasombat, "The International Charitable Nonprofit Sector: Scope, Size, and Revenue," Urban Institute Policy Brief, September 2006, 1-6. (6)
- Jacqueline L. Salmon, "A Mammoth Wealth Transfer Awaits the Area, Study Predicts," *Washington Post*, 7/26/2006, A1, (3).
- Elizabeth Schwinn, "A Strong Showing—Increase of Donations to Charities in 2006," *Chronicle of Philanthropy*, 2/8/07, (5).
- Kristi Heim, "In Person: Yang Lan Nurtures Philanthropy Among China's Newly Wealthy," *The Seattle Times*, 7/24/11, pp.3.
- Lester M. Salamon and Stephanie L. Geller, "Michigan Nonprofit Employment," *Nonprofit Employment Bulletin*, No.36, John Hopkins University, October 2010.

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- "US Foundation Giving for International Purposes Reaches Record Level According to New Foundation Center Report," Foundation Center, 12/4/08.
- Beth Breeze, "UK Philanthropy's Greatest Achievements," Institute for Philanthropy, 2006.
- Elizabeth T. Boris, "Nonprofit Organizations in a Democracy—Roles and Responsibilities," in Elizabeth T. Boris and C. Eugene Steuerle (ed.) Nonprofits and Government: Collaboration and Conflict, Urban Institute Press, 1999, 1-79.
- Harvy Lipman, "Tax Data Shows Utah Donors are Most Generous to Charitable Groups," *Chronicle of Philanthropy*, 8/8/02, 11-12.
- Caroline Preston, "Nonprofit Officials Offer Warnings, Share Advice About Next Generation of Leaders," *Chronicle of Philanthropy*, 7/30/07.
- Hollis A. Hope, et. al., "Philanthropy in the News: An Analysis of Media Coverage, 1990-2004," Foundation Works: Philanthropy Awareness Initiative, 2006, 1-22.
- "Challenges Facing Philanthropy: A Summary of the 2004 Philanthropy Summit," conference convened by the Center on Philanthropy at Indiana University, April 13-14, 2004, 1-40.
- Steven Lee Myers, "Putin Hits Hard at Plots," *Raleigh News and Observer*, 1/26/2006, 10A.
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- John Seely and Julian Wolpert, "The Financial Squeeze for New York City's Nonprofit Human Service Providers," New York City Nonprofits Project, Aug. 2004.
- National Commission on Philanthropy and Civic Renewal, The 1997-1998 National Survey on Philanthropy & Civic Renewal. Hudson Institute, 1998, 1-45.
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- John Craig, "The New Financial Realities: The Response of Private Foundations," The Commonwealth Fund, 2008.

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- Don Van Natta Jr., et al, "In Charity and Politics, Clinton Donors Overlap," *New York Times*, 12/20/07, (5).
- John R. Emshwiller, "Bill Clinton's Complicated World," *Wall Street Journal*, 12/20/07, (3).
- Susan Schmidt, et al, "Clinton Reveals Donors," *Wall Street Journal*, 12/19/08, (4).
- 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).
- Peter Baker and Charlie Savage, "In Clinton List, A Veil Is Lifted On Foundation," *New York Times*, 12/19/08, (3).
- Don Van Natta Jr. and Jo Becker, "Many Dealing of Bill Clinton Are Under Review," *New York Times*, 11/18/08, (3).
- Charlie Savage, "A Donor's Gift Soon Followed Clinton's Help," *New York Times*, 1/4/09, (3).



### Disaster Response and Charitable Giving

- "Donors' Guide to Gulf Coast Relief & Recovery," New York Regional Association of Grantmakers: Gulf Coast Recovery Task Force, May 2006, 1-68.
- "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.
- "The Response of Local Nonprofits to Hurricane Katrina," The Aspen Institute: Snapshots, August 2006, 1-5.
- Tony Pipa, "Weathering the Storm: The Role of Local Nonprofits in the Hurricane Katrina Relief Efforts, Summary," The Aspen Institute, 1-3.
- Elizabeth T. Boris and C. Eugene Steuerle, *After Katrina: Public Expectation and Charities' Responses*, Urban Institute, 2006, 1-29.

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- 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).
- Dana Milbank "Bush Legislative Approach Failed in Faith Bill Battle; White House Is Faulted for Not Building a Consensus in Congress" *Washington Post*, 4/23/03, A1 (5 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.
- Valerie Richardson, "The Future of the Faith-Based Initiative," *Philanthropy*, May/June 2001, 10-12.
- Patricia Zapor, "Wait and See: Religious Charities Aren't Rushing to Embrace Bush's Initiative," *Philanthropy*, May/June 2001, 13-15.
- Brendan Minter, "Following the Money," *Philanthropy*, May/June 2001, 16-19.
- Bill Broadway, "Good for the Soul - and the Bottom Line: Firms Promote Spirituality in the Workplace and Find It Pays," *Washington Post*, 9/19/01, A1.
- Dana Milbank, "Bush Issues 'Faith-Based Initiative' Orders; Decrees Would Allow Religious Programs to Get Federal Money," *Washington Post*, 12/13/02, A4.
- Mike Allen and Alan Cooperman, "Bush Backs Religious Charities on Hiring; Hill is Urged to Ease Bias Rules on Groups that Get U.S. Funds," *Washington Post*, 6/25/03, A1, (3 pages).
- David Nather, "Faith Initiative Backer Backs Away from GOP," *CQ Weekly*, 6/7/03, 1355.

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## V. WEDNESDAY, FEBRUARY 13, 2013—RATIONALES FOR TAX EXEMPTION OF FOUNDATIONS AND VOLUNTARY ORGANIZATIONS; GOVERNMENT EXACTIONS IN EXCHANGE FOR TAX EXEMPTION

**FIRG GUEST SPEAKER: NADYA K. SCHMAVONIAN, INDEPENDENT CONSULTANT; FORMER PRESIDENT, PUBLIC/PRIVATE VENTURES, RHODES CONFERENCE CENTER, 233 SANFORD**

**Topic for Paper Due on Sunday, February 10, 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: (30 Readings - 184 Total Pages)**

- Fishman/Schwarz, p.294-337, 369-389, 416-427, 1034-1038 (82)
- “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)
- Roger Colinvaux, Brian Galle, and Eugene Steuerle, “Evaluating the Charitable Deduction and Proposed Reforms,” *Urban Institute*, June 2012 (21)
- “The Idea that the State Should Subsidise Giving to Good Causes is Resilient, But not Easily Justified,” *The Economist*, 6/8/12.(8)
- Peter Coy, “The Problem with Patching Up the Tax Code,” *Bloomberg Businessweek*, 11/19-11/25/12. (3)

### **Supporting Organizations**

- Stephanie Strom, “Big Tax Break Often Bypasses Idea of Charity,” *New York Times*, 4/25/05, (3).
- Stephanie Strom, “What Is Charity,” *New York Times*, 11/14/05, F1, (4).
- Carol Kino, “Welcome to the Museum of My Stuff,” *New York Times*, 2/18/07, (5).
- Stephanie Strom, “Tax Exemptions of Charities Face New Challenges,” *New York Times*, 5/26/08, (4).
- Stephanie Strom, “Charities Rise, Costing U.S. Billions in Tax Breaks,” *New York Times*, 12/6/09, (4).

### **Private Benefit**

- Robert O’Harrow Jr., “A Contractor, Charity and Magnet for Federal Earmarks,” *Washington Post*, 11/2/07, (5).
- “Protecting Yourself from Self-Dealing,” *Essentials*, Association of Small Foundations, Fall 2008, (3).

### **Recent IRS Reforms**

- Stephanie Strom, “IRS Seeks More Charity Transparency,” *New York Times*, 6/15/07,(2).
- “Policy and Practice Checklist for the 2008 IRS Form 990,” Simpson Thacher, Client Memorandum, 12/8/08, (7).

### Investment Constraints on Tax-Exempt Organizations

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- Peter Panepento, "Foundations Press Congress on Rules for Endowments," *Chronicle of Philanthropy*, 9/20/07, (1).

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- "About Leona Helmsley and Dog Charities," *Helmsley Charitable Trust*, 11/20/10, (2).
- Lauren A.E. Schuker, "The Firestorm Over Private Museums," *Wall Street Journal*, 4/4/08, (4).
- J. Alex Tarquinio, "Foundations Face Pitfalls When Heirs Take Over," *New York Times*, 11/11/08, (3).
- "Leona Helmsley: Should Dogs Get Her Fortune?" *The Week*, 7/18/08, (1).
- Leslie Lenkowsky, "Should A Big Bequest Go to the Dogs?" *Chronicle of Philanthropy*, 8/21/08, (2).

### Exemption of Particular Organization Types

#### *Exemption for the NCAA:*

- Pete Thamel, "Brand Defends NCAA Tax Status," *New York Times*, 10/31/2006, p.D1. (1)

#### *Exemption of Political Organizations:*

- Suzanne Perry, "Election Will Bring Changes to Congressional Oversight of Nonprofits," *The Chronicle of Philanthropy*, 10/29/10, (4).
- Eric Lipton, "Congressional Charities Pulling in Corporate Cash," *New York Times*, 09/05/10, (6).
- Mike McIntire, "Hidden Under Tax-Exempt Cloak, Political Dollars Flow," *New York Times*, 09/23/10, (6).
- Janet Novack, "The Democrats' Little Tax Secret," *Forbes*, 10/2/2006, p.48. (1)

#### *Exemption of Credit-Counseling Organizations*

- John Leland, "Nonprofit Payday Loans? Yes, to Mixed Reviews," *New York Times*, 8/28/07, (3).
- Amit R. Paley, "Nonprofit Student Lenders Scrutinized," *Washington Post*, 7/19/07, (1).

### **For Further Reading**

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- Douglas Mancino, "IRS Issues Interim Guidance Concerning Community Health Needs Assessment Requirements Applicable to Tax-Exempt Hospitals," *Hunton & Williams LLP*, 7/15/11, pp.10.
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- Robert Pear, "Nonprofit Hospitals Face Scrutiny over Practices," *New York Times*, 3/19/2006, A18, pp.2.
- Richard Winton, "Delgadillo to Sue Hospitals that Dump Patients on Skid Row," *Los Angeles Times*, 11/8/2006, B1 pp.2.
- Elizabeth Schwinn, "Illinois Hospital Appeals Property-Tax Decision," *Chronicle of Philanthropy*, 11/9/2006, 31, pp.1.
- Jill R. Horwitz, "Making Profits and Providing Care: Comparing Nonprofit, For-Profit, and Government Hospitals," *Health Affairs*, Vol. 24, No. 3 (May/June 2005), p.790-801.
- Jill Horwitz, "Nonprofit Ownership, Private Property, and Public Accountability," *Health Affairs Web Exclusive*, 6/20/2006, W308-11.
- Erika Lunder and Edward C. Liu, "Tax-Exempt Section 501(c)(3) Hospitals: Community Benefit Standard and Schedule H" 7/31/08, pp.17.
- John Carreyrou and Barbara Martinez, "Nonprofit Hospitals, Once For the Poor, Strike it Rich," *Wall Street Journal*, 4/4/08, pp.6.
- John Carreyrou, "Nonprofit Hospitals Flex Pricing Power," *Wall Street Journal*, 8/28/08, pp.5.

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- Thomas Troyer, "The 1969 Private Foundation Law: Historical Perspective on Its Origins and Underpinnings,"

Council on Foundations, 2000, 1-29.

- Rob Atkinson, "Theories of the Federal Income Tax Exemption for Charities: Thesis, Antithesis and Syntheses," 27 *Stetson Law Review* 395-431 (1997).
- Charles Clotfelter, "The Impact of Tax Reform on Charitable Giving: A 1989 Perspective," Paper from the Center for the Study of Philanthropy and Voluntarism at Duke University, 12/1/89, 1-36.
- Stephen Diamond, "Of Budgets and Benevolence: Philanthropic Tax Exemptions in Nineteenth Century America." Paper from 1991 Conference on "Rationales for Federal Income Tax Exemption" at New York University, 10/10-11/90, 1-40.
- Evelyn Brody, "Legal Theories of Tax Exemption: Sovereignty Quasi and Real," June 2001, 1-33.
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- Evelyn Brody, "Charities in Tax Reform: Threats to Subsidies Overt and Covert," 66 *Tennessee Law Review* 687-763 (1999).

#### *Property Tax Exemption:*

- Erica Noonan, "Should Nonprofits Chip In?" *Boston Globe*, 10/18/07, pp.4.
- Evelyn Brody, "Property Tax Exemption For Charities Mapping the Battlefield," June 2001, 1-23.
- Evelyn Brody, "All Charities Are Property-Tax Exempt, But Some Charities Are More Exempt Than Others," Annual Conference of the National Center on Philanthropy and the Law, NYU, 10/29/09, 1-45.

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- Roger Colinvaux, "The Conservation Easement Tax Expenditure: In Search of Conservation Value, *Columbia Journal of Environmental Law*, Vol 37. No. 1 (61)

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- Tammy Reiss, "The Web for Free? Not So Fast," *Business Week*, 8/17/98, 6.
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- Dennis Zimmerman, "Nonprofit Organizations, Social Benefits, and Tax Policy," *National Tax Journal*, 9/91, 341-349.
- Alan L. Feld & Evelyn Brody, reporters, Principles of the Law of Nonprofit Organizations: Council Draft No. 1, American Law Institute, 10/2/03, 1-191.
- "Memorandum: Year 2003 in Review," *Ropes & Gray Exemption Organization Practice Group*, 2/12/04.
- Charles Clotfelter, ed., Who Benefits from the Nonprofit Sector, University of Chicago Press, 1992.
- Evelyn Brody and John Tyler, "How Public is Private Philanthropy: Separating Reality from Myth," Philanthropy Roundtable, June 2009.
- John Colombo, "The NCAA, Tax Exemption and College Athletics," University of Illinois College of Law, 1/26/09.

## VI. WEDNESDAY, FEBRUARY 20, 2013 – THE NITTY GRITTY OF TAX EXEMPTIONS AND DEDUCTIBILITY; EFFECTIVENESS OF TAX POLICY IN INCREASING/DECREASING DONATIONS

**Topic for paper Due on Sunday, February 17, 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: (26 Readings - 204 Total Pages)

- Fishman/Schwarz p. 249-256; 446-454; 460-461; 703-734 828-858, 868-873, 881-886 (94)
- Jill Lepore, "Tax Time: Why We Pay" *The New Yorker*, 11/26/2012, (6)
- "Defending The Charitable Deduction," *Reid and Riege, P.C.* Spring 2012, (4)
- "Who Claims Itemized Deductions and How Much Do They Claim," *Urban Institute / Brookings Institute*, 10/3/12(8)
- Richard Schmalbeck, "Gifts and The Income Tax – An Enduring Puzzle," *Law and Contemporary Problems*, Vol. 73:63, Winter 2010,p.63-93. (31)
- Stephanie Strom, "In Hurricane Tax Package, a Boon for Wealthy Donors," *New York Times*, 10/27/05, A23. (1)
- Joseph Weber, "Deductibles: A Faith-Based Alternative to Tuition," *Business Week*, 8/1/05, (1)
- Ashlea Ebeling, "Stupid Tax Tricks," *Forbes*, 11/1/04, 86-87. (2)
- 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)
- Joseph Cordes, et. al., "Extending the Charitable Deduction to Nonitemizers: Policy Issues and Options," *Urban Institute: Charting Civil Society*, May 2000, (7)
- 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, "Scientists Set to Cash in on Tax Break," *Times UK*, 6/23/07. (2)
- Sally Beatty, "Survey Finds Giving by Wealthy Largely Immune to Tax Changes," *Wall Street Journal*, 10/26/2006, D3. (1)
- David Nasaw, "The 'Giving' Season," *The Nation*, 12/6/2010. (3)

### Private Benefit

- "Philanthropy, Fannie Mae Style," *Business Week*, 4/2/07. (2)
- Andrew Taylor, "Rep. Mollohan's Pet Projects Rejected," *Associated Press*, 4/2/07. (2)

### Estate Tax Debate

- Diana Aviv and Robert Greenstein, "A Compromise on the Estate Tax," *Chronicle of Philanthropy*, 11/11/04. (4)
- 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)
- Robert Shiller, "Taxes Needn't Discourage Philanthropy," *New York Times*, 7/28/12, (3)

### Endowing Your Annual Gift

- Maayan Jaffe, "Endowment Gifts Keep on Giving," *Baltimore Jewish Times*, 11/27/12, (3)

### **For Further Reading**

#### Current Legislative Activity

- Peter Panepento, "Foundations Press Congress to Change Tax Rules for Endowments," *The Chronicle of Philanthropy*, 9/6/07.
- Jonathan D. Glater, "New Ties Found to Link Lenders and Colleges," *New York Times*, 9/5/07.
- Daniel J. Wakin, "Chairman's Kin Hired as Architect for Carnegie," *New York Times*, 10/11/07.
- *Provisions of Interest to Charitable Organizations and their Donors in H.R. 4, the Pension Protection Act of 2006*, Simpson Thatcher & Bartlett, LLP, 8/9/2006, 1-16.
- *New Charitable Giving Incentives and Exempt Organization Reforms: Pension Protection Act of 2006*, Ropes & Gray, 8/14/2006, 1-8.
- "Commentary on Current Philanthropic Issues," *NCRP Bulletin*, May 2003, (5 pages).
- Jacqueline L. Salmon, "Foundations Anxious Over Bill on Giving," *Washington Post*, 7/8/03, A3 (3 pages).
- Steve Levin, "Foundations Contend Proposal to Increase Giving is too Costly," *Pittsburgh Post-Gazette*, 6/9/03, (4 pages).
- 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).
- Editorial Staff, "The Life and Death of Foundations," *New York Times*, 6/8/03, (1 page).
- Memo to Members, *Independent Sector*, June 2002.
- Memo to Members, *Independent Sector*, December 2002.

#### Pension Protection Act of 2006

- "The Pension Protection Act of 2006: Detailed Summary of Charitable Provisions," U.S. House Committee on Ways and Means, 7/28/2006, 1-4.
- Ashlea Ebeling, "The New Rules of Giving," *Forbes*, 12/11/2006, 218-20.

#### History of Estate Tax Repeal

- "The Estate Tax and Charitable Giving," Congressional Budget Office, July 2004, 1-10.
- David Cay Johnston, "Coping With a Tax That Has Nine Lives," *New York Times*, 6/24/01, B1.
- Patrick Rooney and Eugene Tempel, "Repeal of the Estate Tax: Its Impact on Philanthropy," Draft Paper, 11/1/00, 2-15.
- Thomas Billitteri, "A Taxing Dilemma," *Chronicle of Philanthropy*, 7/27/00, 1, 17-19.
- David Joulfaian, "The Federal Estate and Gift Tax: Description, Profile of Taxpayers, and Economic Consequences," *U.S. Department of the Treasury OTA Paper 80*, 12/98, 25-27.
- Joseph Cordes and C. Eugene Steuerle, "Death Taxes and Charity," *Foundation News & Commentary*, 9-10/99, 36-40.

### Gifts of Property (Including Stock) Rather Than Cash

- Pablo Eisenberg, "Congress Should End Special Tax Breaks for Art Gifts," *Chronicle of Philanthropy*, 10/12/2006, 35.
- Evelyn Brody, ed., *Property-Tax Exemption for Charities*, Urban Institute Press, 2002.
- Carrie Coolidge, "The Price Is Right," *Forbes*, 6/12/00, 402-404.
- Joan Oleck, "When Giving Means Getting Back," *Business Week*, 4/10/00, 232.
- Robert Barker, "Lending A Helping Hand—With Stocks," *Business Week*, 11/15/99, 292, 294.
- Council on Foundations, "170(e)(5) Is Permanent! (Finally!)," *Washington Update*, 10/23/98, 1-4.
- Daniel J. Wakin, "Chairman's Kin Hired as Architect for Carnegie," *New York Times*, 10/11/07

### Charitable Deduction

- "IRS Confirms Deductibility of Contributions to Domestic Disregarded Entities," *Caplin & Drysdale*, 8/3/12, (3)
- David Barstow and Diana B. Henriques, "I.R.S. Makes an Exception on Terror Aid," *New York Times*, 11/17/01, B1.
- Charles Clotfelter, "The Economics of Giving," in *The National Commission on Philanthropy and Civic Renewal, Giving Better/Giving Smarter Working Papers*, 1997, 31-51.
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- Carol J. De Vita and Eric C. Twombly, "Charitable Tax Credits: Boon or Bust for Nonprofits?" *Charting Civil Society*, July 2004.
- Elizabeth Schwinn, "Write-Offs," *Chronicle of Philanthropy*, 6/22/04.
- Adam Yarmolinsky, "The Charitable Deduction: Subsidy or Limitation?" *NVSQ*, 3/00, 173-178.
- C. Eugene Steuerle and Martin Sullivan, "Toward More Simple and Effective Giving: Reforming the Tax Rules for Charitable Contributions and Charitable Organizations," *12 American Journal of Tax Policy* 399-447 (1995).
- Christopher Toppe, et. al., *Deducting Generosity: The Effect of Charitable Tax Incentives on Giving*, Washington: Independent Sector, 1-25.
- Diana B. Henriques and Leslie Eaton, "Once and Future Issue: Subtracting Donations From Damage Awards," *New York Times*, 11/18/01, A33.

### Tax-Savvy Charitable Strategies and Proposals

- Deborah L. Jacobs, "Donations that Suit the Taxman," *Business Week*, 2/20/2006, (1)
- "SWRI Extended Report: 2003 Survey of Planned Giving Vehicles," *Wealth and the Commonwealth*, 7/10/03.
- "The Strategic Uses of Philanthropy," *The Bernstein Journal*, Spring 2004, 9-13.
- Ashlea Ebeling, "Designs for Giving," *Forbes*, 10/29/01, 66-68.
- Ashlea Ebeling, "The Charitable Split," *Forbes*, 11/24/03, 257-259.
- 2003 Survey of Planned Giving Vehicles, Social Welfare Research Institute, June 2003.
- John J. Havens, et. al., 2003 Survey of Planned Giving Vehicles, Social Welfare Research Institute, June 2003.
- "Bequests and Other Forms of Planned Giving," *Giving USA Update*, Issue 2, 2002.
- Jennifer Pellet, Randy Myers, and C.J. Prince, "It's Your Money," *Chief Executive*, 10/1/99, 68-75.
- Janet Novack, "The New Giving Game," *Forbes*, 9/20/99, 180-195.
- Council on Foundations, "IRA Rollover Survives," *Washington Update*, 8/13/99, 1-3.
- Brigid McMenemy, "Trust Me: The IRS Drops Its Hard Line On Trusts," *Forbes*, 12/27/99, 234.
- 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.
- James Allen, Jr., "The Charitable Remainder Trust As An Executive Benefit Tool," *Journal of Financial Service Professionals*, 7/1/99, 34-50.
- Jonathan D. Glater, "New Ties Found to Link Lenders and Colleges," *New York Times*, 9/5/07.

### Supporting Organizations

- Thomas H. Pollack and Jonathan D. Dunford, "The Scope and Activities of 501(c)(3) Supporting Organizations," Urban Institute: National Center for Charitable Statistics, 5/31/2005, 1-17.
- Alyssa A. DiRusso, "Supporting the Supporting Organization: The Potential and Exploitation of 509(a)(3) Charities," 39 *Indiana Law Review* 207, 207–52 (2006).

### Restrictions on Foundation International Grant-Making

- Garry W. Jenkins, "Soft Power, Strategic Security and International Philanthropy," 85 N.C. L. Rev. 773–846 (2007).



### IRS-Related Issues

- "IRS Releases Study on Charitable Trusts," *Chronicle of Philanthropy*, 5/3/01. (1)
- Elizabeth Schwinn, "IRS Approves Unusual Investment Option," *Chronicle of Philanthropy*, 11/9/2006, 31.
- William Claiborne, "Supremacist Group's Tax Status Due Review," *Washington Post*, 7/13/99, A8.
- Grant Williams, "A Legal Setback for IRS," *Chronicle of Philanthropy*, 2/25/99, 37, 39-40.
- "Qualifying for Public Charity Status: The Section 170(b)(1)(A)(vi) and 509(a)(1) Test and the Section 509(a)(2) Test," Silk, Adler & Colvin, 6/23/97, 1-12.

### 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)
- Diana B. Henriques, "Religion-Based Tax Breaks: Housing to Paychecks to Books," *New York Times*, 10/11/2006, A1.
- "Memorandum: Disaster Tax Relief for Individuals and Charities," Ropes & Gray, 1/24/02.
- Gerald Auten, Charles Clotfelter, and Richard Schmalbeck, "Taxes and Philanthropy Among The Wealthy," in Joel Slemrod, ed., Does Atlas Shrug? The Economic Consequences of Taxing The Rich, Harvard University Press, 2000.
- Eleanor Brown, "Taxes and Charitable Giving: Is There a New Conventional Wisdom?" Urban Institute: Seminar on Emerging Issues in Philanthropy, 4/29/99, 153-158.
- Evelyn Brody, "Charities in Tax Reform: Threats To Subsidies Overt and Covert," Draft Paper, 9/22/98, 1-101.
- Evelyn Brody, "Hocking The Halo: Implications of the Charities' Winning Briefs in *Camps Newfound / Owatonna, Inc.*," 27 *Stetson Law Review* 433-456 (1997).
- Harvy Lipman, "Tax Data Show Utah Donors Are Most Generous to Charitable Groups," *Chronicle of Philanthropy*, 8/8/02, 11.

## VII. WEDNESDAY, FEBRUARY 27, 2013 – INDIVIDUAL GIVERS AND JOINERS: HUMAN AND SOCIAL IMPULSES TO CHARITY, PHILANTHROPY AND VOLUNTEERISM

**CLASS GUEST SPEAKER: DANIEL LURIE, DUKE 1999 GRADUATE, FOUNDER AND CEO, TIPPING POINT COMMUNITY, SAN FRANCISCO.**

For More Information: <http://www.tippingpoint.org/joomla/>

**4:30PM FIRG GUEST SPEAKER DAVID ROCKFELLER, JR. CHAIRMAN OF THE ROCKEFELLER FOUNDATION BOARD OF TRUSTEES**

**6:30PM BUFFET DINNER HONORING DAVID ROCKEFELLER, JR. AND DANIEL LURIE AT PROFESSOR FLEISHMAN'S HOUSE**

**Topic for Paper Due on Sunday, February 24, 4:00 p.m.:** Describe any of your activities that you regard as philanthropic, 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 6th.**

### **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:** (36 Readings - 210 Total Pages)

- Brian O'Connell, ed., America's Voluntary Spirit. The Foundation Center, 1983. p.1-4, 11-95:
  - 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"  
 de Tocqueville, "Of the Use Which the Americans Make of Public Associations in Civil Life"  
 McGuffey's Reader, "True and False Philanthropy"  
 Washington, "Raising Money"  
 Addams, "Charitable Effort"  
 Lerner, "The Joiners"  
 Thoreau, "Philanthropy"

- Stephanie Strom, "Charitable Giving Rose Last Year for First Time Since 2007," *New York Times*, 6/19/11, (2)
- "Ethics Researcher Pledges to Give Away 1 Million Pounds," *Oxford Today*, Vol. 22. No. 2, Hilary 2010, (1)
- "Charity Makes Mondays Lovable," *Newsobserver*, 09/05/10, (2)
- Farhad Manjoo, "Online Giving, One Person at a Time," *New York Times*, 11/10/10, (3)
- Alexi Barrionuevo, "Mine Owner's Flair Rankles Chilean Elite," *New York Times*, 11/19/10, (4).
- John Kania and Mark Kramer, "Large-Scale Social Change Requires Broad Cross-Sector Coordination, yet the Social Sector Remains Focused on the Isolated Intervention of Individual Organizations," *Stanford Social Innovation*, Winter 2011, (9).
- Connie Bruck, "The Art of the Billionaire," *New Yorker*, 12/6/10, (2).
- David Eisner et al, "The New Volunteer Workforce," *Stanford Social Innovation Review*, Vol. 7, No. 1 (Winter 2009), p.29,32-37. (7)
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- Elizabeth Schwinn, "Generous Gifts May Mean Empty Pews, Study Finds," *Chronicle of Philanthropy*, 8/4/04, (1)
- Grant Williams, "Decline in Reading Literature Spells Trouble for Charities," *Chronicle of Philanthropy*, 7/22/04, (1)
- E. Gil Clary, "Volunteer Sustainability: How Nonprofits Can Sustain Volunteers' Commitment," *Snapshots, The Aspen Institute*, Oct. 2004, (5)
- Benedict Carey, "Just Thinking About Money Can Turn the Mind Stingy," *New York Times*, 11/21/2006, F6, (2)
- Nicole Lewis, "Half of Affluent Americans Say Tax Policy Doesn't Affect Their Giving," *Chronicle of Philanthropy*, 11/9/2006, 14, (3)
- "Where Generosity Lives," *Business Week*, 10/2/2006, p.12 (1)
- David Leonhardt, "Philanthropy From the Heart of America," *New York Times*, 10/11/2006, C1, (2)
- Rick Martinez, "With Faith and Hope, There's Charity," *Raleigh News and Observer*, 11/22/2006, 15A, (2)
- Edward Wyatt, "Next Project for Oprah: Feel-Good Reality TV," *New York Times*, 12/16/2006, B9, (2)
- Peter Singer, "What Should a Billionaire Give – and What Should You?" *New York Times Magazine*, 12/17/2006, 58, (7).
- Peter Katel, "Philanthropy in America," *CQ Researcher*, Vol. 16, No. 43 (12/8/2006), p.1010-1018. (9)
- Rich Karlgaard, "Irrational Act," *Forbes*, 2/14/2005, 35, (2)
- Philip Rucker, "Twin Efforts Aim to Popularize Online Giving," *Washington Post*, 12/13/07, A11, (2).
- Pamela Ryckman, "Getting Into Charity Through its Board," *Financial Times*, 7/20/07, (2).
- Daniel Altman, "If the IRS Gets Less, Does Charity Get More?" *New York Times*, 5/8/05, (1).
- Claude Rosenberg and Tim Stone, "A New Take on Tithing," *Stanford Social Innovation Review*, Vol. 4, No. 3 (Fall 2006), p.21-28 (8)
- 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)
- Nicholas D. Kristof, "Bleeding Heart Tightwads," *New York Times*, 12/21/08, (2).
- Deborah Jacobs, "As the Economy Declines, Donors Rethink Estate Plans," *New York Times*, 11/11/08, (3).
- Mary Medland, "A Social Worker Finds a Pet Cause in Rescuing Animals," *Chronicle of Philanthropy*, 2/8/07, (2)

#### Social Media

- Jennifer Aaker and Andy Smith, "How to Use Social Media for Social Good," *Stanford Social Innovation Review*, Winter 2011, Vol. 9, No. 1, (4)
- "Sharing-and Giving- On the Web," *Bloomberg Businessweek*, 10/25/10, p.45-46 (2)
- Stephanie Strom, "Nonprofits Rush to Solicit Donations via Text, but the System is Flawed," *New York Times*, 10/31/10, (4).
- Andrea Brock et al, "Grantees' Limited Engagement with Foundations' Social Media", *The Center For Effective Philanthropy*, 2012, (9)
- John Tozzi, "In Case of Emergency, Log On," *Bloomberg Businessweek*, 11/12/12, (2)

#### Motivation

- Chinmayi Sharma, "Butin: Service Programs Are Not Enough," *The Chronicle*, 12/02/10, p.3&6. (2)

### For Further Reading

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- Kelly Greene, "Baby Boomers as Tomorrow's Volunteers," *News and Observer*, 12/25/05, 6E.
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- Jessi Hempel, "Nonprofit Drugs for the Poor," *Business Week*, 5/9/2005, 16.
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- Brian O'Connell, "Citizen Participation and Influence in America: Impressive Performance and Alarming Shortfalls," *Public Integrity*, Vol. 5, No. 2, Spring 2003. 159-170.
- Carey Goldberg, "For Good Health, It Is Better to Give, Science Suggests," *Boston Globe*, 11/28/03.
- Dan Seligman, "Is Philanthropy Irrational?" *Forbes*, 6/1/98, 94-103.
- Roy Menninger, "Foundation Work May Be Hazardous to Your Mental Health," Council on Foundations, 1981, 7-9.
- H. Peter Karoff, "Transformation Through Philanthropy – Theory, Fact, and Fiction," The Philanthropic Initiative, Inc., October 2004, 1-24.
- Dan Siegel and Jenny Yancey, *Philanthropy's Forgotten Resource? Engaging the Individual Donor; Summary Report*, New Visions: 2003. 1-19.
- Lynn Barendsen, "The Business of Caring: A Study of Young Social Entrepreneurs," *GoodWork Project*, Feb. 2004. 1-61.
- "Toward 2000 and Beyond: Charitable and Social Change Giving in the New Millennium, Part 2," *Fund Raising Management*, June 1999, 24-28.
- Caryle Murphy, "Salvation Army: A Church Known As A Charity," *News & Observer*, 12/25/00, 21A.
- Peter Frumkin, "He Who's Got It Gets to Give It," *Washington Post*, 10/3/99, B1, B4.
- James Payne, "The Smart Samaritan," *Policy Review*, 5-6/97, 48-53.
- David Johnston, "Can Americans Give More, and Not Hurt?" *New York Times*, 4/4/99, BU7.
- Eileen Daspin, "How to Give More," *Wall Street Journal*, 10/2/98, W1, W4.
- "Using Fundraising Research to Raise More for Your Organization," *Giving USA Quarterly*, No. 3, 2006, 1-8.
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- Bill Shore, Chapter 5, *Revolution of the Heart*, Riverhead Trade, 1996, 75-97.
- *Creating Impact in a Changing World*, Rockefeller Philanthropy Advisors 2007-2008 Giving Report, October 2009.

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- Jessi Hempel, "The Science of Smart Giving," *Business Week*, 12/11/2006, 96.
- Daniel Kadlec, "How to Give to the Little Guys," *Time*, 11/6/2006, 97.
- Dean Foust, "How to Give Intelligently," *BusinessWeek*, 3/5/07, 10.
- Julie Bick, "Write a Check? The New Philanthropist Goes Further," *New York Times*, 3/18/07.
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## VIII. WEDNESDAY, MARCH 6, 2013– DEFINING THE NOT-FOR-PROFIT SECTOR: SIMILARITIES, DIFFERENCES, FUZZY BOUNDARIES AND COMPARATIVE ADVANTAGES AMONG THE SECTORS

**Topic for Paper Due on Sunday, March 3, 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 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 ventures?

### 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?

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**IX. WEDNESDAY, MARCH 20, 2013 - HYBRIDIZATION: VENTURE PHILANTHROPY, SOCIAL ENTREPRENEURSHIP, MISSION INVESTING AND TRI-SECTORAL SOLUTIONS TO PUBLIC PROBLEMS (PART I)**

**CLASS GUEST SPEAKER: CHERYL DORSEY, PRESIDENT OF THE ECHOING GREEN FOUNDATION**

**4:30PM: FIRG GUEST SPEAKER: TONY PROSCIO, SENIOR FELLOW, CENTER FOR STRATEGY PHILANTHROPY, AND PROFESSOR FLEISHMAN SPEAKING ON "PHILANTHROPY NOW OR LATER: CAN FOUNDATIONS SOMETIMES ACHIEVE MORE IMPACT IN A SHORTER PERIOD THAN IN PERPETUITY AND HOW CAN WE KNOW?"**

**6:30PM: BUFFET DINNER HONORING CHERYL DORSEY AND TONY PROSCIO AT PROFESSOR FLEISHMAN'S HOME.**

**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 orientated 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?

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## X. WEDNESDAY, MARCH 27 2013 – -- HYBRIDIZATION / SOCIAL ENTREPRENEURSHIP II – NONPROFIT CAPITAL MARKETS AND HUMAN RESOURCES (PART II). ALSO, THE GROWING MOVEMENT TOWARDS FOUNDATION SPENDDOWN

### Study Questions:

See Hybridization I

### Required Readings: (33 readings, 239 Total Pages)

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- Robin Givhan, "Dressing Up in the Latest Fashionable Cause?" *Washington Post*, 11/3/2006, (2)
- Jeffrey Gangemi, "Microcredit Missionary," *Business Week*, 12/26/2005, (1)
- Daniel Gross, "Fighting Poverty with \$2-a-Day Jobs," *New York Times*, 7/16/2006, (2).
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- James Surowiecki, "What Microloans Miss," *New Yorker*, 3/17/08, (2)
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- Mark Gottfredson, et al, "Achieving Breakthrough Performance," *Stanford Social Innovation Review*, Vol. 6, No. 3 (Summer 2008), (7)
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- Steve Hamm, "Social Entrepreneurs Turn Business Sense to Good," *Business Week*, 12/8/2008. (7)
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- Small Business Association, "Social Entrepreneurship and Government: A New Breed of Entrepreneurs Developing Solutions to Social Problems," *Social Entrepreneurship and Government*, 12/17/07, (58)
- Greg Dees, "Going Beyond Generosity in Philanthropy: Inspiring and Equipping Business Students to Engage in Social Problem Solving," *Duke University*, 6/26/08, (14)
- Staff, "Firms with benefits," *The Economist*, 01/07/2012, (2)
- Robert Shiller, Shiller, Robert. "Problems with Philanthropy." *Finance and the Good Society*, 2012, (12)

### Spreading Technologies as Accountability Mechanisms

- Mario Marino, "Here Comes the Sun," *VPPnews*, 9/2009, (5)

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- "Highlight of Perpetuity or Limited Lifespan: How Do Family Foundations Decide?" *The Foundation Center*, 2009, (6)
- John Stuart Mill, "Endowments," *Dissertations and Discussions*, 2nd ed. London, (1875), (22)
- Jon Dickason and Duncan Neuhauser, "Spending Out, the Markey Way," *Foundation News & Commentary*, Vol. 40, No. 5, September/October 1999, (7)
- Michael Klausner, "When Time Isn't Money," *Stanford Social Innovation Review*, Vol. 1, No. 1, Spring 2003, 51-59, (11)
- James Piereson, "The Insider's Guide to Spend Down," *Philanthropy Roundtable*, (4)
- Deanne Stone, "Alternatives to Perpetuity: A Conversation Every Foundation Should Have," *National Center for Family Philanthropy*, 2005, (12)
- Stephanie Strom, "How Long Should Gifts Grow?" *New York Times*, 11/12/07, (5)
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- Dana Brakman Reiser, "Symposium on the Law of Philanthropy in the Twenty-First Century, Part I," *Chicago-Kent Law Review*, Vol 85, No. 2, 2010, pp.619-655.
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### Impact Investing:

- Dana Brakman Resier, "Benefit Corporations—A Sustainable Form of Organization," *Wake Forest Law Review*, Fall 2011, (34)
- Kriss Deiglmeier, "When Did Philanthropy Become a Bad Word," *Stanford Center for Social Innovation – Kriss's Blog*, 03/08/2012, (1)
- Cathy Clark et al, "A Market Emerges: The Six Dynamics of Impact Investing," *The Impact Investor*, October 2012, (39)
- Group Responses, "Should Philanthropies Operate Like Businesses," *The Wall Street Journal*, 11/28/11, (6)
- Johanna Mair, "Roundtable on Impact Investing," *Stanford Social Innovation Review*, Winter 2012, (6)
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- Staff, "About Impact Investing," *Global Impact Investing Network Website*, n.d. (4)
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- "E.T. Jackson and Associates Ltd., "Accelerating Impact: Achievements, Challenges, and What's Next in Building the Impact Investing Industry," *Rockefeller Foundation Report*, 07/31/12, (63)
- 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)

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- David Chen, "Goldman to Invest in City Jail Program, Profiting if Recidivism Falls Sharply," *New York Times*, 08/02/2012, (03)
- Steven Lawrence and Reina Mukai, "Key Facts on Mission Investing, Foundation Center, October 2011, pp.4
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- Sally Beatty, "Giving Back: Soros Extends Life of Foundation," *Wall Street Journal*, 6/23/2006, W2.
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- Heidi Waleson, "Beyond 5%," *Northern California Grantmakers*, 5/25/07.
- John Thelin and Richard Trollinger, "Time is of the Essence: Foundations and the Policies of Limited Life and Endowment Spend-Down," *The Aspen Institute*, 2009.

## XI. WEDNESDAY, APRIL 3, 2013 – STRATEGY AND IMPACT MEASUREMENT

**CLASS GUEST SPEAKER: THOMAS J. TIERNEY, CHAIRMAN AND CO-FOUNDER, THE BRIDGESPAN GROUP; CO-AUTHOR WITH JOEL FLEISHMAN OF *GIVE SMART: PHILANTHROPY THAT GETS RESULTS***

**4:30PM: FIRG GUEST SPEAKER: THOMAS J. TIERNEY**

**6:30PM: BUFFET DINNER HONORING THOMAS TIERNEY AT PROFESSOR FLEISHMAN'S HOUSE.**

### Study Questions:

1. What are some of the arguments for a wider understanding of how foundations achieve beneficial impacts on society through their grantmaking 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 grantmaking 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.

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- J. Mccray, "Is Grantmaking Getting Smarter: A National Study of Philanthropic Practice," *Grantmakers for Effective Organizations*, 2011, (15)
- Judith Rodin et al, "Shared Outcomes," *Stanford Social Innovation Review*, Summer 2012, (9)
- Staff, "Four Essentials For Evaluation," *Grantmakers For Effective Organizations*, 05/24/2012 (32)
- Fay Hanleybrown et al, "Channeling Change: Making Collective Impact Work," *Stanford Social Innovation Review*, Spring 2012 (8)
- The Atlantic Philanthropies, Atlantic Reports, "Why Supporting Advocacy Makes Sense for Foundations," May 2008. (15)
- Anne Eisenberg, "Their Mission: To Build a Better Toilet," *New York Times*, 8/13/11, (3).
- Matthew Dolan, "Revival Bid Pits Detroit vs. Donor," *Wall Street Journal*, 7/2/11, (6)
- Paul Brest et. al., "Calculated Impact," *Stanford Social Innovation Review*, Vol. 7, No. 1 (Winter 2009), (8)
- Cynthia Gibson, "What Donors Want," *The Nonprofit Quarterly*, Fall 2010, (5)
- Paul Brest, "President's Statement," William and Flora Hewlett Foundation, 2004, (9)
- William P. Barrett, "Eye on the Prize," *Forbes*, 12/13/04, 246-248, (2)
- Judith Gueron, "On the Frontlines: Throwing Good Money After Bad," *Stanford Social Innovation Review*, Vol. 3, No. 3 (Fall 2005), (4)
- Ian Wilhelm, "Gates Program in Botswana Offers Lessons on Fighting AIDS," *Chronicle of Philanthropy*, 11/11/04, (5)
- Ian Wilhelm, "Gates Fund Gets 300 Requests a Day," *Chronicle of Philanthropy*, 11/11/04, (1)
- Michael E. Porter and Mark R. Kramer, "Philanthropy's New Agenda: Creating Value," *Harvard Business Review*, Nov-Dec 1999, (10)
- Peter Frumkin, "Evaluating for Success and the Five Dimensions of Philanthropic Impact," *Philanthropy*, Sept/Oct 1999, (4)
- William A. Schambra, "How to Make a Big Foundation Effective," *Chronicle of Philanthropy*, 9/14/2006, (3)
- Tom Paulson, "Gates Foundation Follows New Paths," *Seattle Post-Intelligencer*, 6/24/08, (7)
- "Rockefeller Revolutionary," *Economist*, 12/16/2006, 68, (1)
- Paul Brest, "Strategic Philanthropy: In Good Times and Bad," The Center on Philanthropy & Public Policy, 2008-2009 Distinguished Speakers Series, 3/26/09, (13)
- Stephanie Strom, "As Detroit Sturrgles, Foundations Shift Mission," *New York Times*, 3/22/2009, (3)
- Mark Kramer, "Catalytic Philanthropy," *Stanford Social Innovation Review*, Fall 2009, (6)

### Tactical Issues in Grant Making

- Jamie Smith Hopkins, "Faster Grants Set For Charities," *Baltimore Sun*, 11/15/07, (2)
- John Hechinger, "Big-Money Donor's Move to Curb Colleges' Discretion to Spend Gifts," *Wall Street Journal*, 9/18/07, (3)
- Chuck Kaufman, "New Operating Cost Benchmark Established for Private Foundations," *Press Release: Foundation Source*, 9/18/07, (3)

#### Piloting New Initiatives v. Replicating Other Foundations' Pilots

- "Replication Local Style: A Philadelphia Story," *GIH Inside Stories*, Summer 2007, (6)

#### The Challenge of Achieving Reform in Particular Fields

- David Armstrong, "Trial and Error," *Forbes*, 6/19/2006, 128, (5)
- Jay Greene & William C. Symonds, "Bill Gates Gets Schooled," *Business Week*, 6/26/2006, (6)
- Charles Piller and Doug Smith, "Unintended Victims of Gates Foundation Generosity," *Los Angeles Times*, 12/16/07, (6)
- Marilyn Chase, "Gates AIDS Trial Failure Stirs Questions," *Wall Street Journal*, 7/13/07, (3)
- 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)
- Celia Dugger, "In Africa, Prosperity From Seeds Falls Short," *New York Times*, 10/10/07, (4)

#### Conservative Foundations

- Jeff Krehely, et. al., "Axis of Ideology: Conservative Foundations and Public Policy," Executive Summary, National Committee for Responsive Philanthropy, March 2004, (4)
- Andrew Rich, "War of Ideas," *Stanford Social Innovation Review*, Vol. 3, No. 1 (Spring 2005), (8)
- Laurie Goodstein and David D. Kirkpatrick, "Conservative Group Amplifies Voice of Protestant Orthodoxy," *New York Times*, 5/22/04, (3)
- John J. Miller, "The Very Foundation of Conservatism," *New York Times*, 11/28/05, (2)
- David Callahan, "\$1 Billion for Ideas: Conservative Think Tanks in the 1990s," National Committee for Responsive Philanthropy, March 1999, (3)

#### International Grantmaking and Foreign Aid

- Paul Mooney, "Scrutiny by Chinese Officials Dampens Hopes of Charitable Groups," *Chronicle of Philanthropy*, 9/20/07, (4)
- Ian Wilhelm, "American Grant Makers Seek to Deepen Their Involvement in China," *Chronicle of Philanthropy*, 9/20/07, (2)
- Ross Tieman, "Socially Responsible Investment: Practicing What They Preach," *Financial Times*, 7/5/07, (3)
- 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

- The F.B. Heron Foundation, "2007 Annual Report," The F.B. Heron Foundation, 2007, (6)

#### For Further Reading

- Paul Jansen et al, "The Dynamic Board: Lessons from High Performing Nonprofits," *McKinsey Quarterly*, May 2004, (44)
- Staff, "First Annual Report on Foundations," *The Foundation Source*, 2012, (29)
- Paul Brest and Hal Harvey. Money Well Spent, Bloomberg PR, Ch 1-2, 2008 pp.21 (42).
- Caroline Preston, "A Water Charity Spills Its Secrets, and Donors Open Their Wallets," *Chronicle of Philanthropy*, 11/20/2010.
- Carnegie Results, Carnegie Foundation of New York, Fall 2010.
- "Cycles of Philanthropy," Imprint Capital Advisors, *Aspen Philanthropy Group*, July 30, 2010.
- Joan Spero, "The Gloval Role of U.S. Foundations," *The Foundation Center*, 2010.
- Ronald A Heifetz, et. al., "Leading Boldly," *Stanford Social Innovation Review*, Vol. 2, No. 3 (Winter 2004), 1-11.
- Judith M. Gueron, "Presidential Address—Fostering Research Excellence and Impacting Policy and Practice: The Welfare Reform Story," *Journal of Policy Analysis and Management*, Vol. 22, No. 2 (2003), 163-174.
- Heather Higgins and Michael S. Joyce, "Should Foundations Exist in Perpetuity?" in *The Philanthropic Prospect*, Philanthropy Roundtable, 5-45.
- "Drowning in Paperwork, Distracted From Purpose," Project Streamline, Grants Managers Network, 2008, 9–21.



- Joel Fleishman, The Foundation: A Great American Secret, PublicAffairs, 2007, 166-234.
- Edward Pauly, "The Role of Evaluation in the 21<sup>st</sup> Century Foundation," Prepared for *International Network of Strategic Philanthropy*, October 2004, 1-14.
- Michael E. Porter and Mark R. Kramer, "The Competitive Advantage of Corporate Philanthropy," *Harvard Business Review OnPoint*, 2002, 2-14.
- Allen Grossman and Daniel Curran, "EMCF: A New Approach to an Old Foundation," Case Study 9-302-090, Harvard Business School, 6/21/02, 1-25.
- Judy Huang, et. al., "In Search of Impact," Center for Effective Philanthropy, 2005, 2-26.
- The Center for Effective Philanthropy, "Beyond the Rhetoric: Foundation Strategy," Cambridge, MA,
- Francie Ostrower, *Foundation Effectiveness: Definitions and Challenges*, Urban Institute: Center on Nonprofits and Philanthropy, November 2004, 1-10.
- Jack H. Knott, et. al., "Evaluating the Impact on Public Policy of Foundation-Sponsored Programs in the Health Professions," *Evaluation & the Health Professions*, Sep 1999, 342-357.
- Hoyt Bleakley, "Disease and Development: Evidence from Hookworm Eradication in the American South," Job Market Paper, 10/4/02, 1-25.
- Mary McClymont, et. al., Many Roads to Justice: The Law-Related Work of Ford Foundation Grantees Around the World, vii-ix, 1-18, 89-126.
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- "Assessing Foundation Performance: Current Practices, Future Performances," Seminar Summary, Center for Effective Philanthropy, January 2002, 1-16.
- Edward Pauly, "Using Evaluation to Strengthen Foundations' Effectiveness," Prepared for *International Foundation Symposium 2000*, 1-6.
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- John Bare, "Philanthropy, Evaluation, Accountability, and Social Change," *The Foundation Review*, 2010 Vol 1:4, (21)
- David Hunter, "Guide to Assessing Youth Development Program Quality and Effectiveness," *Edna McConnell Clark Foundation*, (8)

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- Kyla Wahlstrom, "Investigating the Links to Improved Student Learning," *Learning from Leadership Project*, 2010.
- "Social Justice Grantmaking II, And Update on U.S. Foundation Trends," Foundation Center, 2009.
- "2008 Annual Report," Edna McConnell Clark Foundation, 2008.
- Alan Abramson, "Improving Nonprofit Performance: Key Issues and Promising Approaches," *Snapshots, The Aspen Institute*, Nov./Dec. 2001.

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- Stupski Foundation, "Strategy and Program Overview," July 2008.

## XII. WEDNESDAY, APRIL 10, 2013 - ATTAINING WIDER IMPACT ON SOCIETY THROUGH LOBBYING, ADVOCACY AND EDUCATION BY TAX-EXEMPT ORGANIZATIONS

### 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.

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- Ruth A. Wooden, "Building Consensus, Not Partisanship," *Chronicle of Philanthropy*, 10/14/04, (2)
- Erik Ose, "McCain-Feingold Could Sting Nonprofits," *News and Observer*, 4/9/04, (2)
- Jeffrey M. Berry, "The Lobbying Law is More Charitable Than They Think," *Washington Post*, 11/29/03 (3)
- "Foundation Philanthropy Enhanced by Charities' Public Policy Action," Draft, *Charity Lobbying in the Public Interest*, 1/6/03, (2)
- "Questions and Suggested Responses on Lobbying," Draft, *Charity Lobbying in the Public Interest*, 10/31/02, (4)
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- Craig Whitlock and Lori Montgomery, "Ehrlich Ally Hitting Up Racing Industry," *Washington Post*, 2/6/04, (2)
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- Timothy E. Wirth, "Mobilizing for Social Change: Impacting Policy, Politics and the Legislative Agenda," Remarks at the University of Southern California, 3/22/05, 1-8.
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- 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"
- Robert O'Harrow, Jr., "McCain Campaign Calls; A Nonprofit Steps In," *Washington Post*, 5/31/08.
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- Llyod Mayer, "Grasping Smoke: Enforcing the Ban on Political Activity by Charities," *First Amendment Law Review*, Vol. 6, Fall 2007.

### XIII. WEDNESDAY, APRIL 17, 2013 – ACCOUNTABILITY: CHOICE-MAKING AND MANAGEMENT IN FOUNDATIONS AND NOT-FOR-PROFIT ORGANIZATIONS

#### 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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