

THE LAW OF
NONPROFIT ORGANIZATIONS
Professor Jill Manny
Fall 2012

August 29 and September 5 — Introduction

Purchase the casebook entitled "Cases and Materials on Nonprofit Organizations, Fourth Edition," by James Fishman and Stephen Schwarz, along with the Fourth Edition of the Statutory Supplement, at the N.Y.U. Bookstore. The update will be made available on Blackboard.*

1. In the Casebook, read:

pp. 2 – 14, 30 – 44. Prepare a written outline of your answer to the Introductory Problem on p. 45 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code**§ 501(a), (b), (c)(1) – (27) [§ 501(c)(8) – (27) may be skimmed]
§ 170(a), (b), (c)
§ 508(a), (b), (c)

Form 1023, Application for Exemption Under Section 501(c)(3) of the Internal Revenue Code, p. 1099 (skim to determine what the IRS is interested in discovering).

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

www.metmuseum.org
www.komen.org
www.peta.org
www.fordfound.org
www.sierraclub.org
www.now.org
www.abanet.org
www.nfl.org
www.pewtrusts.org

* Read pages in Update Memo posted on Blackboard under “Course Documents” that correspond to the pages assigned in the casebook for each class.

** “Code” refers to the Internal Revenue Code. “Regulations” refers to the Treasury Regulations. The relevant Code and Regulations provisions can be found in the Statutory Supplement.

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

4. Read the three articles posted on Blackboard:

Stephanie Strom, Big Gifts, Tax Breaks and a Debate on Charity, N.Y. Times, Sept. 6, 2007, at A1.

Robert B. Reich, Is Harvard a Charity?, L.A. Times, Oct. 2007, at A 13.

Michael Cohn, Tax Court Says Sperm Donor's Foundation Does Not Qualify as a Charity, WebCPA DEBITS&CREDITS, July 22, 2010, http://www.webcpa.com/debits_credits-55023-1.html.

5. Read the excerpt from the Final Report of the Panel on the Nonprofit Sector available on Blackboard.

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September 10— Organization Under State Law

1. In the Casebook, read:

pp. 48 – 74; 77 – 85. Prepare a written outline of your answers to Problem 2 on p. 63 and problems (c), (e), and (f) on p. 85 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Rev. Model Nonprofit Corp. Act: §§ 1.40(6), (10), (21), (23), (28), (30), 2.01 – 2.06, 3.01, 3.02, 4, 17.07.

N.Y. Not-for-Profit Corp. Law: §§ 201, 202, 204, 205, 206, 404-406, 508, 515.

Cal. Corp. Code: §§ 5111, 5130, 5410.

Restatement of Trusts 3d: § 28.

Form of Articles of Organization, p. 1006.

Form of By-Laws, p. 1008 (skim).

Form of Charitable Trust, p. 1014 (skim).

September 12 — Dissolution and Distribution of Assets

1. In the Casebook, read:

pp. 85 – 113. Prepare a written outline of your answers to Problem 1 on p. 89 and Problems 1 – 4 on pp. 104 – 105 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Restatement of Trusts 3d, §§ 66 and 67, p. 233.

September 17 and 19— Tax-Exempt Status; Charitable Requirement

1. In the Casebook, read:

pp. 294 – 323; 362 – 367; 369 – 397. Prepare a written outline of your answer to the Problems on p. 367 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: § 501(c)(3) [again].

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

3. On Blackboard read:

Letter from Rep. Thomas to Myles Brand, President of the NCAA, and the excerpt from the response from Mr. Brand.

Medical Cannabis Resource Center Denial of Exemption Letter.

September 24 and October 1— Private Inurement, Private Benefit, and Excess Benefit Transactions

Class cancelled on September 26. Make-up to be held later in the semester.

1. In the Casebook, read:

pp. 445 – 471, 249 – 259. Prepare a written outline of your answers to Problems 1(a)-(f) and 2 on pp. 471 – 474 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: § 4958.

Regulations: §§ 1.501(c)(3)-1(c)(2).

3. Read the articles posted on Blackboard:

Cornelia Dean, *Wealthy Stake \$25 Million in a War With the Sea*, N.Y. Times, July 8, 2007.

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

October 3—Educational Organizations

1. In the Casebook, read:

pp. 398 – 414. Prepare a written outline of your answers to the Problems on pp. 414 – 415 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Regulations: §§ 1.501(c)(3)-1(d)(3).

October 8— Religious Organizations and Health Care Organizations

1. In the Casebook, read:

pp. 415 – 430; 323 – 344. Prepare a written outline of your answers to problems (a), (c), and (d) on p. 430 and to the Problems on pp. 343 – 344 for your own reference during class discussion.

2. On Blackboard read:

Priv. Ltr. Rul. 2012-32-034 (May 16, 2012).

October 10— Miscellaneous Organizations

1. In the Casebook, read:

pp. 351 – 362 and 431 - 439. Prepare a written outline of your answers to the Problems on p. 357 and Problems (a) and (c) on p. 439 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: § 501(j).

Regulations: §§ 1.501(c)(3)-1(d)(4), (5).

October 15 — Commercial Activities

1. In the Casebook, read:

pp. 567 – 590. Prepare a written outline of your answers to Problems (a), (b), and (d) – (i) on pp. 590 – 591 your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: § 502.

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

October 17 and 22 — Limitations on Lobbying

1. In the Casebook, read:

pp. 474 – 506. Prepare a written outline of your answers to all portions of the Problem on pp. 506 - 508 for your own reference during class discussion.

2. In the Statutory Supplement, read:

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

October 24 – Limitations on Political Campaign Activities

1. In the Casebook, read:

pp. 508 – 545. Prepare a written outline of your answers to all portions of the Problem on pp. 536 – 537 for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code §§ 501(c)(3), (4); 527; 4955.

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November 19—Introduction to Private Foundations and their Alternatives

1. In the Casebook, read:

pp. 703 – 704, 712 – 736, 739 – 757 (just skim pp. 752 – 757), 763 – 764. Prepare a written outline of your answers to problems 1(a), (b), and (f) on pp. 737 – 738 and the Problem on p. 750 **using both relevant tests** (§§ 170(b)(1)(A)(vi) and 509(a)(2)) for your own reference during class discussion.

2. In the Statutory Supplement, read:

Code: §§ ; 507(d)(2); 509(a)(1) – (4); 509(d); 170(b)(1)(A)(i) - (vi); 4942(j); 4946.

November 21— Private Foundation Excise Taxes

1. In the Casebook, read:

pp. 765 – 773, 781 – 787, 789 – 803, ignoring all problem sets that are not specifically assigned. Prepare a written outline of your answers to the problems 1(a)-(g) and 2 on pp. 780 – 781 and problems (a), (c), (d), (e), (g), (h), and (i), on pp. 803 – 804 for your own reference during class discussion.

2. In the Statutory Supplement, read or re-read:

Code: §§ 4940; 4941; 4945; 4946.

November 26 and 28 — Unrelated Business Income Tax

1. In the Casebook, read:

pp. 591 – 596, 601 – 633. Prepare a written outline of your answers to the problems on pp. 633 – 635 (excluding problem 1(d)).

2. In the Statutory Supplement, read:

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

3. On the Web, visit www.metmuseum.org/store (or go to a Metropolitan Museum of Art shop). Think about sales of which items might generate unrelated business income.

December 3 – Exclusions from UBTI and Joint Ventures

1. In the Casebook, read:

pp. 635 – 640; 667 – 689. Prepare a written outline of your answers to Problem 1 on p. 641 and the problem on p. 689 – 690 for your own reference during class discussion.

2. In the Statutory Supplement, read:

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

December 5— Nonprofit Operation and Governance

1. On Blackboard, read:

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

INDEPENDENT SECTOR, PRINCIPLES FOR GOOD GOVERNANCE AND ETHICAL PRACTICE: A GUIDE FOR CHARITIES AND FOUNDATIONS (2007).

IRS, Good Governance Practices.

2. In the Casebook, read:

pp. 123 – 129, 134 – 157, 163 – 166, 171 – 190, 195 – 202. Prepare a written outline of your answers to problems (a) and (b) on p. 157 and the problems (except for (d)) on pp. 198 – 199 for your own reference during class discussion.

3. In the Statutory Supplement, read:

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

Revised Model Act: 1.7, 3.04, 8.01, 8.30 – 8.33, 8.41, 8.42.

Cal. Corp. Code: §§ 5210, 5227, 5230, 5231, 5233-37; 7233; 7236.

N.Y. Not-for-Profit Corp. Law: §§ 715 – 717, 719.