

LLOYD HITOSHI MAYER
Notre Dame Law School
Notre Dame, Indiana 46556
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POSITIONS

2005-present **Notre Dame Law School**, Notre Dame, Indiana
Professor, 2011-present
Associate Dean, 2011-2015, *Associate Professor*, 2005-2011
Courses taught: Election Law, Not-For-Profit Organizations, Professional
Responsibility, Taxation of Business Enterprises
Research areas: Not-For-Profit Organizations, Tax Law, Election Law

1996-2011 **Caplin & Drysdale, Chartered**, Washington, District of Columbia
Of Counsel, 2005-2011; *Member*, 2002-2005; *Associate*, 1996-2002

1994-1996 **Judge Lowell A. Reed, Jr., United States District Court for the Eastern
District of Pennsylvania**, Philadelphia, Pennsylvania
Judicial Law Clerk

OTHER TEACHING EXPERIENCE

2018-2019 **Notre Dame Mendoza College of Business**, Notre Dame, Indiana
2007-2014 *Presenter*, Nonprofit Executive Programs

HIGHER EDUCATION

1991-1994 **Yale Law School**, J.D., 1994
Yale Law and Policy Review, Business Editor
Yale Journal on Regulation, Editor
John M. Olin Fellow in Law and Economics

1985-1989 **Stanford University**, A.B., Economics and Public Policy, 1989
Graduated with Distinction, Economics and Public Policy
Graduated with Honors, Economics
Sobieski Prize for Creative Thinking in Economics

DISTINCTIONS, HONORS, AWARDS

American Bar Foundation Fellow (2020)
University of Notre Dame All-Faculty Team (2018)
ABA Committee on Nonprofit Organizations Outstanding Nonprofit Academic Award (2014)
American Law Institute Member (2014)
Notre Dame Black Law Students Association Charles F. Crutchfield Professorial Excellence
Award (2007)

PUBLICATIONS

Works in Progress

Campaign Finance Disclosure and Federalism

Is Applying Charity Law to 21st Century Assets Using Old Wineskins for New Wine?

Natural Law and What It Means To Be Charitable

Law Review Articles

21st Century Churches and Federal Tax Law (with Ellen P. Aprill), 2024 UNIVERSITY OF ILLINOIS LAW REVIEW (forthcoming 2024)

Nonprofits, Taxes, and Speech, 56 LOYOLA OF LOS ANGELES LAW REVIEW (forthcoming 2023)

Regulating Charitable Crowdfunding, 97 INDIANA LAW JOURNAL 1375 (2022); draft published in INTERNATIONAL SOCIETY FOR THIRD-SECTOR RESEARCH CONFERENCE WORKING PAPER SERIES VOLUME XII (2021)

What is Caesar's, What is God's: Fundamental Public Policy for Churches (with Zachary B. Pohlman), 44 HARVARD JOURNAL OF LAW & PUBLIC POLICY 145 (2021)

The Promises and Perils of Using Big Data to Regulate Nonprofits, 94 WASHINGTON LAW REVIEW 1281 (2019)

When Soft Law Meets Hard Politics: Taming the Wild West of Nonprofit Political Involvement, 45 JOURNAL OF LEGISLATION 194 (2019)

A (Partial) Defense of Section 501(c)(4)'s "Catchall" Nature, 21 NYU JOURNAL OF LEGISLATION & PUBLIC POLICY 439 (2018)

Globalization Without a Safety Net: The Challenge of Protecting Cross-Border Funding of NGOs, 102 MINNESOTA LAW REVIEW 1205 (2018)

"The Better Part of Valour is Discretion": Should the IRS Change or Surrender Its Oversight of Tax-Exempt Organizations?, 7 COLUMBIA JOURNAL OF TAX LAW 80 (2016)

Fragmented Oversight of Nonprofits in the United States: Does It Work? Can It Work, 91 CHICAGO-KENT LAW REVIEW 937 (2016)

Taxing Social Enterprise (with Joseph Ganahl), 66 STANFORD LAW REVIEW 387 (2014)

Nonprofits, Speech, and Unconstitutional Conditions, 46 CONNECTICUT LAW REVIEW 1045 (2014); reprinted in THE FIRST AMENDMENT LAW HANDBOOK 469 (Rodney A. Smolla ed., 2014-2015 ed.)

Law Review Articles (continued)

Politics and the Public's Right to Know, 13 ELECTION LAW JOURNAL 138 (2014)

Nonprofits, Politics, and Privacy, 62 CASE WESTERN RESERVE LAW REVIEW 801 (2012)

The "Independent" Sector: Fee-for-Service Charity and the Limits of Autonomy, 65 VANDERBILT LAW REVIEW 51 (2012)

Charities and Lobbying: Institutional Rights in the Wake of Citizens United, 10 ELECTION LAW JOURNAL 407 (2011)

NGO Standing and Influence in Regional Human Rights Courts and Commissions, 36 BROOKLYN JOURNAL OF INTERNATIONAL LAW 911 (2011)

Disclosures about Disclosure, 44 INDIANA LAW REVIEW 255 (2010)

Regulating Charities in the 21st Century: An Institutional Choice Analysis (with Brendan M. Wilson), 85 CHICAGO-KENT LAW REVIEW 479 (2010)

Politics at the Pulpit: Tax Benefits, Substantial Burdens, and Institutional Free Exercise, 89 BOSTON UNIVERSITY LAW REVIEW 1137 (2009); reprinted in 8 INTERNATIONAL JOURNAL OF CIVIL SOCIETY LAW 116 (2010); abridged version published in 65 EXEMPT ORGANIZATION TAX REVIEW 19 (2010)

Breaching the Leaking Dam?: Corporate Money and Elections, 4 CHARLESTON LAW REVIEW 91 (2009)

What is This "Lobbying" That We Are So Worried About?, 26 YALE LAW & POLICY REVIEW 485 (2008)

Grasping Smoke: Enforcing the Prohibition on Campaign Intervention by Charities, 6 FIRST AMENDMENT LAW REVIEW 1 (2007) (Univ. of North Carolina School of Law); abridged version published in 59 EXEMPT ORGANIZATION TAX REVIEW 71 (2008)

The Much Maligned 527 and Institutional Choice, 87 BOSTON UNIVERSITY LAW REVIEW 625 (2007); abridged version published in 58 EXEMPT ORGANIZATION TAX REVIEW 21 (2007)

Books

NONPROFIT ORGANIZATIONS: CASES AND MATERIALS (Foundation Press, 6th edition 2021) (with James J. Fishman & Stephen Schwarz)

NONPROFIT ORGANIZATIONS: STATUTES, REGULATIONS AND FORMS (Foundation Press 2021) (with James J. Fishman & Stephen Schwarz)

TAXATION OF NONPROFIT ORGANIZATIONS: CASES AND MATERIALS (Foundation Press, 5th edition 2021) (with James J. Fishman & Stephen Schwarz)

Contributions to Books

Private Inurement in *ENCYCLOPEDIA OF NONPROFIT MANAGEMENT, LEADERSHIP, AND GOVERNANCE* (Kevin Keams & Wen-Jiun Want eds.) (Edward Elgar Publishing, forthcoming 2023)

Public Benefit and Charitable Class, in *CHARITY LAW: EXPLORING THE CONCEPT OF PUBLIC BENEFIT* (Daniel Halliday & Matthew Harding, eds.) (Routledge 2022)

Searching for the Optimal Legal Limits on Charity Entrepreneurship, in *THE HANDBOOK OF LAW AND ENTREPRENEURSHIP IN THE UNITED STATES* (D. Gordon Smith, Brian Broughman & Christine Hurt eds.) (Cambridge University Press 2022)

Fiduciary Principles in Charities and Other Nonprofits, in *THE OXFORD HANDBOOK OF FIDUCIARY LAW* (Evan J. Criddle, Paul B. Miller & Robert H. Sitkoff eds.) (Oxford University Press, 2019)

Creating a Tax Space for Social Enterprise, in *THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW* (Benjamin Means & Joseph W. Yockey eds.) (Cambridge University Press, 2018)

Non-Profits and Political Activity and Tax Law and Political Activity in *MONEY IN AMERICAN POLITICS: AN ENCYCLOPEDIA* (ABC-CLIO, 2018)

Serving on a Nonprofit Board: Legal and Ethical Duties in an Age of Accountability as an appendix in *JOHN TROPMAN & THOMAS J. HARVEY, NONPROFIT GOVERNANCE: THE WHY, WHAT, AND HOW OF NONPROFIT BOARDSHIP* (Corby Books & University of Scranton Press, 2009)

The Legal Rules for Policy and Civic Impact in *POWER IN POLICY: A FUNDER'S GUIDE TO ADVOCACY AND CIVIC PARTICIPATION* (Fieldstone Alliance, 2007)

Tax Issues for Private Foundations (with Douglas N. Varley) in *COMPLETE GUIDE TO NONPROFIT ORGANIZATIONS* (Civic Research Institute, 2005; supplement 2007)

Selected Other Publications

Allocating State Authority Over Charitable Nonprofit Organizations, *UCLA LAW REVIEW DISCOURSE* (forthcoming 2023)

Is Tax Law Different? Unconstitutional Conditions, Religious Organizations, and Taxation, 98 *NOTRE DAME LAW REVIEW REFLECTION (SPECIAL ISSUE) S1* (2023)

A Critical Problem Needing a Bolder Solution?: A Response to Atinuke O. Adediran's Nonprofit Board Composition, 83 *OHIO STATE LAW JOURNAL ONLINE* 74 (2022)

Convenient but susceptible to fraud: Why it makes sense to regulate charitable crowdfunding, *The Conversation*, December 17, 2021

Selected Other Publications (continued)

Tax Exemption Is Not a Subsidy – Except for When It Is (with Ellen P. Aprill), 172 Tax Notes Federal 1887, Sept. 20, 2021

Why Steve Bannon faces fraud charges: 4 questions answered, The Conversation, August 21, 2020

Reflections on legal barriers to cross-border philanthropy in Europe, Alliance, July 4, 2019

Could a More Robust IRS Have Nipped the Varsity Blues Scandal in the Bud?, The Chronicle of Philanthropy, Mar. 15, 2019

Trump and Clinton Foundations: YUGE Difference Between Their Mistakes, CNN, Sept. 21, 2016

The Rising of the States in Nonprofit Oversight, THE NONPROFIT QUARTERLY, Sum. 2016, at 22

NorCal Tea Party Patriots Opens a Crack in Taxpayer Privacy Protections, ABA TAX TIMES, June 2016

Limits on State Regulation of Religious Organizations, Columbia University Academic Commons (2013)

Book Review: Politics, Taxes, and the Pulpit: Provocative First Amendment Conflicts, 41 NONPROFIT AND VOLUNTARY SECTOR QUARTERLY 349 (2012)

Introduction to Shadows and Light: Nonprofits and Politics in a Post-Citizens United World, 10 ELECTION LAW JOURNAL 335 (2011)

The Pulpit, the Pew, and Politics, in BOSTON COLLEGE LAW SCHOOL LAW & RELIGION PROGRAM, ELECTING FAITH: THE INTERSECTION OF LAW AND RELIGION IN POLITICS AROUND THE WORLD (2009)

Political Activities of Tax-Exempt Organizations: Useful Guidance in Revenue Ruling 2004-6, 100 JOURNAL OF TAXATION 181 (2004)

The Effect of the Bipartisan Campaign Reform Act on Exempt Organizations, 41 EXEMPT ORGANIZATION TAX REVIEW 23 (2003)

Donor Intent: Preserving the Mission of Charitable Foundations, WASHINGTON LEGAL FOUNDATION, CONTEMPORARY LEGAL NOTES Series Number 43 (2003)

RECENT INVITED LECTURES AND ADDRESSES (2019 to present)

The Legal Framework for Newfangled Charitable Assets, Annual Conference (October 2023), NYU Law School National Center on Philanthropy & the Law (invited)

Nonprofits, Taxes, and Speech, Symposium (March 24, 2023), LMU Loyola Law School

Federalism and Voting, Section on Election Law, AALS Annual Meeting (January 6, 2023)

Natural Law and What It Means To Be Charitable, Nonprofit Forum (December 7, 2022), NYU Law School National Center on Philanthropy & the Law

Unconstitutional Condition, Taxes, and Religious Nonprofits, Notre Dame Law Review Symposium (October 24, 2022), Notre Dame Law School

Nonprofits, Taxes, and Speech, Annual Conference (postponed to October 21-22, 2022), NYU Law School National Center on Philanthropy & the Law

Allocation of State Authority Over Charitable Nonprofit Organizations, Symposium (September 30-October 1, 2022), UCLA School of Law Program on Philanthropy and Nonprofits

Discussion of Future Collaborations, Charity Law Workshop (September 24, 2022), Notre Dame Law School London Law Programme

Charities and the First Amendment: Questioning Lobbying Limitations and the Campaign Intervention Prohibition, Exempt Organizations Symposium (September 8, 2022), American Bar Association

Natural Law and What It Means To Be Charitable, 15th International Conference (July 12-15, 2022), International Society for Third-Sector Research

Taxing Churches, Tax Chats with Dyreng and Hoopes (podcast) (June 22, 2022)

Philanthropy, Power, and the Law, American Political History Conference: The Past, Present, and Future of American Democracy (June 10-11, 2022), Purdue University

A conversation with Lloyd Hitoshi Mayer, The Giving Review (February 14-15, 2022)

Guest Lecturer, Nonprofit Organizations, Howard University School of Law (February 10, 2022)

Consequences of Americans for Prosperity Foundation v. Bonta (February 1, 2022)
American Bar Association Tax Section Midyear Meeting

Redistricting for the 2020s (January 27, 2022)
Notre Dame Federalist Society (commentator)

A Subsidy for Inequality: Bob Jones & Fundamental Public Policy Today
Annual Meeting (January 9, 2022), AALS, Nonprofit & Philanthropy Law Section

RECENT INVITED LECTURES AND ADDRESSES (2019 to present) (continued)

Consequences of Americans for Prosperity Foundation v. Bonta (December 3, 2021)
Western Conference on Tax Exempt Organizations

“Charitable”, Annual Conference (November 20, 2021)
Association for Research on Nonprofit Organizations & Voluntary Action

Regulating Charitable Crowdfunding, Annual Conference (November 19, 2021)
Association for Research on Nonprofit Organizations & Voluntary Action

Tax and Religion, Tax Law Speaker Series (September 28, 2021)
University of San Diego School of Law

Regulating Charitable Crowdfunding, 14th International Conference (July 15, 2021),
International Society for Third-Sector Research

Charitable Crowdfunding: Who Gives, to What, and Why?, Webinar (April 8, 2021),
Indiana University Lilly Family School of Philanthropy (commentator)

Charitable Crowdfunding, Annual Meeting (January 9, 2021),
American Association of Law Schools, Nonprofit & Philanthropy Law Section (selected paper)

Charities, Speech, and Taxes, Annual Conference (November 13, 2020),
Association for Research on Nonprofit Organizations & Voluntary Action

What is Caesar’s, What is God’s: Fundamental Public Policy for Churches,
Notre Dame Law School Faculty Colloquium (January 21, 2020)

The Promises and Perils of Using Big Data to Regulate Nonprofits, at
What We Know, What We Need to Know, and the Challenges and Opportunities for the Future of
Nonprofit Regulation, Urban Institute (December 11, 2019)

Legal Barriers to Cross-Border Philanthropy in Europe: Taxation
Pre-Conference Event, Biennial Conference (July 3, 2019),
European Research Network on Philanthropy (moderator)

Legal Barriers to Cross-Border Philanthropy: The View from the United States
Association of Young Foundation Experts (Switzerland) (July 2, 2019)

The Promises and Perils of Using Big Data to Regulate Nonprofits
Tulane University Law School Intellectual Life Speaker Series (March 18, 2019)

Dollars and Sense: Campaign Finance Reform for the 21st Century (moderator)
Journal of Legislation Symposium (February 8, 2019)

The Promises and Perils of Using Big Data to Regulate Nonprofits
Notre Dame Law School Faculty Colloquium (January 22, 2019)

MEDIA APPEARANCES

Regularly contacted by reporters on issues relating to nonprofit organizations, election law, and related topics; quoted in numerous media outlets, including *ABC News*, *Associated Press*, *BBC News*, *Bloomberg*, *Boston Globe*, *Chicago Tribune*, *Christian Science Monitor*, *The Chronicle of Philanthropy*, *CNN*, *The Daily Beast*, *Guardian* (UK), *L.A. Times*, *Marketplace*, *Law360*, *NBC News*, *New York Magazine*, *N.Y. Times*, *NPR's All Things Considered*, *Politico*, *ProPublica*, *Tampa Bay Times*, *Tax Notes Today*, *The Texas Tribune*, *Times of San Diego*, *U.S. News & World Report*, *USA Today*, *Washington Post*, and *Wall Street Journal*.

PROFESSIONAL MEMBERSHIPS

American Bar Association: Section on Business Law; Section on Taxation
Association of American Law Schools: Section on Election Law; Section on Nonprofit and Philanthropy Law; Section on Taxation

RECENT LAW SCHOOL & UNIVERSITY SERVICE

2022-present	<i>Member</i> , American Law Institute Committee
2022-present	<i>Member</i> , University Faculty Grievance Committee
2021-present	<i>Faculty Advisor</i> , Tax Law Society
2021-present	<i>Member</i> , Curriculum Committee (<i>Chair</i> , 2023-present)
2016-present	<i>Contact Person</i> , Program of Study in Business Law
2010-present	<i>Faculty Advisor</i> , Journal of Legislation
2006-present	<i>Faculty Advisor</i> , Asian Pacific American Law Students Association
2023	<i>Member</i> , Law School Dean Review Committee
2023	<i>Member</i> , Religious Liberty Initiative Transactional Law Fellow Committee
2021-2022	<i>Member</i> , ad hoc Tax Clinic Committee
2019-2022	<i>Faculty Fellow</i> , Program on Ethics, Compliance, and Inclusion
2020-2021	<i>Member</i> , Faculty Development Committee
2020	<i>Member</i> , Law School Preparedness Committee
2007-2020	<i>Advisor</i> , Nonprofit Professional Development, Mendoza College
2013-2015, 2019	<i>Dean's Delegate</i> , Honor Code
2019	<i>Member</i> , ad hoc Senior Director of Finance & Admin. Search Committee
2018	<i>Acting Associate Dean</i>
2018	<i>Member</i> , ad hoc Registrar Search Committee
2018	<i>Member</i> , ad hoc Student Services Program Manager Search Committee
2016-2018	<i>Member</i> , Appointments Committee (<i>Vice Chair</i> , 2017-2018)
2016-2018	<i>Member</i> , Colloquium Committee
2017	<i>Host</i> , Conference on Cambridge Handbook of Social Enterprise Law

OTHER RECENT PROFESSIONAL ACTIVITIES

2022-present	<i>Member</i> , Board of Advisors, International Charity Law Network
2017-present	<i>Member</i> , Advisory Committee, Regulation of Nonprofits and Philanthropy Project, Urban Institute's Center on Nonprofits and Philanthropy
2014-present	<i>Member</i> , Academic Advisory Board, The Campaign Finance Institute
2011-present	<i>Member</i> , Nonprofit Forum, NYU Law School National Center on Philanthropy and the Law
2008-present	<i>Contributing Editor</i> , Nonprofit Law Prof Blog (<i>Co-Editor</i> , 2018-present)

OTHER RECENT PROFESSIONAL ACTIVITIES (continued)

2018-2022	<i>Member</i> , Board of Advisors, NYU Law School National Center on Philanthropy and the Law (<i>Chair</i> , 2021-2022, <i>Vice Chair</i> , 2019-2021)
2022	<i>Referee</i> , Nonprofit and Voluntary Sector Quarterly
2022	<i>Referee</i> , Nonprofit Policy Forum
2022	<i>Reviewer</i> , ISTR 15th International Conference
2021	<i>Referee</i> , China Quarterly
2021	<i>Referee</i> , Columbia Law Review
2021, 2019	<i>Referee</i> , Voluntas
2019-2021	<i>Member</i> , Academic Committee, ISTR 14th International Conference
2019	<i>Referee</i> , National Tax Journal
2017-2019	<i>Member</i> , Executive Committee, AALS Section on Election Law
2014-2019	<i>Adviser</i> , ALI Restatement of the Law, Charitable Nonprofit Organizations
2018	<i>Referee</i> , Stanford Law Review
2018	<i>Referee</i> , Yale Law Journal
2017	<i>Referee</i> , Public Integrity
2016	<i>Reviewer</i> , Oxford University Press
2016	<i>Reviewer</i> , Cambridge University Press
2010-2015	<i>Member</i> (2010-2015), Executive Committee, AALS Section on Nonprofit and Philanthropy Law (<i>Chair</i> , 2014-2015)
2011-2014	<i>Guest Editor</i> (2011), <i>Peer Reviewer</i> (2011-2014), Election Law Journal
2014	<i>Referee</i> , Melbourne Journal of International Law
2013	<i>Expert Witness</i> , United States Government (on nonprofit tax matters)

BAR ADMISSIONS: District of Columbia; Pennsylvania (inactive); Supreme Court of the United States; U.S. Court of Appeals for the District of Columbia; U.S. District Court for the Eastern District of Pennsylvania; U.S. Tax Court