



Published on National Council of Nonprofits (<https://www.councilofnonprofits.org>)

Original URL: <https://www.councilofnonprofits.org/pressreleases/national-council-nonprofits-files-amicus-curiae-brief-charity-regulation-cases-us>

National Council of Nonprofits Files Amicus Curiae Brief in Charity Regulation Cases in the U.S. Supreme Court

Upon filing an [amicus curiae brief](#) in the U.S. Supreme Court on two charity regulation cases from California and the Ninth Circuit Court of Appeals, National Council of Nonprofits President & CEO Tim Delaney released the following statement:

“We wrote the *amicus* brief to give the Justices a deeper understanding of both the value and values of charitable nonprofits as they decide these cases. Tens of millions of Americans depend on charitable nonprofits every day. Many of those nonprofits themselves are struggling financially because of the pandemic and its economic toll. Any decision the Supreme Court makes could impact the ability of those nonprofits to be effective advancing their missions.

“We stated firmly that charitable nonprofits would oppose any attempt by government to force a nonprofit to *publicly* disclose the identity and amount given by each of its donors. Such government action would be wrong.

“But that is not the issue before the Court. The actual issue is whether a state can require a charitable nonprofit to file with state law enforcement – on a *confidential, non-public* basis – the same form that the organization has *already* filed with the IRS, Schedule B to Form 990 listing only its substantial contributors. We do not oppose that non-burdensome filing.

“Charitable nonprofits make considerable efforts to ensure they operate ethically and in compliance with the law in order to earn and keep the public’s trust. Without the public’s trust, people will stop donating their time and money to charitable missions. That’s why charitable nonprofits want state and federal law enforcement to have information to stop bad actors masquerading as nonprofits. Nonprofits already provide Schedule B to the IRS, so it is not a burden to simply file that same document on a *confidential, non-public* basis with a state attorney general for use to detect fraud and stop any misuse of charitable assets.

“We also expressed deep concern that beneath the surface, ‘This is a campaign finance issue cloaked in charity law clothing.’ The real dispute concerns a campaign finance issue in the election law space. It’s part of the long-running war between political campaign donors who want to remain anonymous versus people who oppose “dark money” and want all dollars spent to influence elections to be disclosed for the public to see. A victory by those wanting secrecy from law enforcement in the charity law context risks politicizing charitable nonprofits, organizations that should remain fully protected from caustic, partisan politics.

“More than 80 *amicus* briefs have been filed in the case, a large percentage from groups fighting the ‘anonymity vs. dark money’ election law dispute. We did not take a side on that heated debate; it’s not our role. Instead, we focused on protecting the work of charitable nonprofits from being dragged into polarizing partisan politics, asking the Justices to be ‘sensitive to the greater risks and the ever-present law of unintended consequences.’ We also urged them to be very careful when writing the opinion to ‘avoid inadvertently weakening the ability of charitable nonprofits to provide services to the millions of people who depend on them daily.’”

The case has not been scheduled for argument yet.

Additional Information

- [*Amicus curiae* brief from National Council of Nonprofits](#)

- [Amicus curiae](#) brief from our colleagues at the California Association of Nonprofits

###

The National Council of Nonprofits (Council of Nonprofits) is a trusted resource and proven advocate for America's charitable nonprofits. Connecting the policy dots across all levels and branches of governments, the Council of Nonprofits keeps nonprofits informed and empowered to create a positive public policy environment that best supports nonprofits in advancing their missions. Working with and through the nation's largest network of nonprofits—with 25,000-plus organizational members—we identify emerging trends, share proven practices, and promote solutions that benefit charitable nonprofits and the communities they serve. Find out more at www.councilofnonprofits.org.