

## FPLG Favorite Posts of 2022: Part Three

01.12.23 | Linda J. Rosenthal, JD



Our readership isn't easily pigeonholed into one or another narrow audience category. So this third and final lookback at favorite blog posts of 2022 showcases the eclectic range of topics we consider and choose each year.

The unifying thread of the For Purpose Law Group blog is the common belief of the nonprofit community that philanthropy serves a vitally important role in today's society. It must be strengthened and supported however possible. In part, that means promoting compliance with the rules governing tax exemption as well as other obligations imposed by law; for example, on account of the employer-employee relationship or the duty to avoid injury to third parties.

It also means taking an interest in sector-wide trends, challenges, and controversies. And it's an invitation to advocate for government and public policies that bolster the charitable community and its beneficiaries.

### ***Challenges, Beginning to End***

This Part Three of our 2022 retrospective starts with favorites that bookend the year, describing the most acute hurdles: a February post on the unprecedented and unexpected staffing shortages and a November post on the near-record inflation.

Both crises were already brewing in 2021. We had all hoped to emerge from the dark tunnel of the pandemic after New Year's Day, but these huge disruptions slammed down fully in 2022, creating an additional set of troubles. While rippling through the entire American economy as a whole, they have hit the nonprofit sector especially hard.

- ***Nonprofit Staffing Crisis: New Call to Action (February 23, 2022)***

We had learned a new phrase late in 2021: The Great Resignation. See our posts from December a year ago: [here](#) and [here](#). As COVID-19 progress had allowed for easing of mandatory closures, it was

expected that workers would flock back in droves. They did not.

By autumn a year ago, the National Council of Nonprofits (NCN) was already leading the way in highlighting the crisis. But by mid-February 2022, the need to step up awareness and demand government action had grown more critical. NCN launched a new action alert: *National Charitable Nonprofits Urge Prioritization of Pandemic and Workforce Shortage Relief* (February 15, 2022). It linked to the letter sent to President Biden and congressional leaders calling for “urgently needed pandemic and workforce shortage relief that will enable charitable organizations to fulfill their roles in our nation’s relief, recovery, and rebuilding.”

NCN highlighted the factors special to the nonprofit model creating an extraordinary disadvantage compared with for-profit or government employers; namely, nonprofits can’t necessarily raise wages to attract more workers because of insufficient funding or already established grant or contract rates. These handicaps were heaped on pre-existing problems fueling staffing shortages in our sector: too many workers at or near retirement age as well as the long-simmering problem of “burnout” in employees from the top to the bottom of the organizational hierarchies.

The Great Resignation is not yet over. And, while the government provided significant help during 2022, certain items on the wish-list – including extensions of the tax credits for employee retention and child care – failed to materialize by year’s end.

“For the nonprofit sector and the population it serves, the high vacancy rate is ‘a potential tragedy at hand.’” A nonprofit worker shortage means that “people in the community needing services can’t get access to them.”

- ***Another Turbulent Year for Nonprofits (November 14, 2022)***

There was another crisis gaining steam in 2021 on top of the perplexing worker shortage: this, too, was landing particularly hard on the nonprofit sector.

Runaway inflation was approaching 40-year-highs. It was coupled with extreme supply-chain bottlenecks. By November 2021, direct-service charities were scrounging for turkeys to serve at community meals; not only were they in short supply but the prices had skyrocketed.

We all hoped – perhaps assumed – that 2022 was going to mark the return to some sense of normalcy. But these economic headwinds accelerated after that New Year’s Eve. By early spring, “the general public were politely asked to refrain from berating 9-year-olds about the shortages of their most popular cookie varieties....” See *Inflation and Other Woes Are Eating Your Girl Scout Cookies* (February 10, 2022) Rachel Wolfe, *The Wall Street Journal* [Girl Scouts are “earning a new badge in global economic turmoil”].

“[I]nflation is testing the financial stability of nonprofit organizations which managed to survive the pandemic.” And – by and large – donors and funders are unaware of exactly how hard, and in what specific ways, inflation is “savaging the budgets” of the organizations that they normally support.

We included in this post a “curated list” of outside articles and posts in 2022 that “may help set the stage for nonprofits, donors and funders, policymakers, government officials, academics, and other

observers and experts to engage in meaningful conversations” about the scope of the inflation problem that nonprofits are facing and how and where help is needed.

### ***More Wide-Ranging Topics***

In between these “bookend” posts of 2022, our favorites spanned a range from the expected (board-governance advice) to the unexpected (reports of deep infiltration of America’s cultural institutions by Russian oligarchs) to high drama (“rage giving on steroids”) and to important choices for philanthropy (how to deal with labor unrest in the sector).

- ***The Delicate Dance of the Nonprofit Board and Staff (February 25, 2022)***

“Despite good intentions and high hopes, worthy and promising nonprofits may collapse on themselves and fail.” The diagnosis, according to expert consultants and professional advisors, is exposed by “a peek behind the curtain [revealing] dysfunction and conflict between the board of directors and the executive staff. And the root of the problem may have been that the two sparring sides did not know or understand sufficiently their legally distinct and separate roles and duties.”

This post, as well as a follow-up a few months later – *More On The Nonprofit Board-Staff Dance* (June 9, 2022) – explains this all-important division of responsibilities in the nonprofit setting.

- ***Putin’s Pals & Western Philanthropy (March 9, 2022)***

“Amidst the horror of the Russian invasion of Ukraine are side stories that have grabbed media attention.” Among them is “... that Putin’s cronies are deeply enmeshed in the philanthropy of the West.” The Washington Post ran a story in early March: *Russian oligarchs have donated millions to U.S. charities, museums and universities, analysis shows* (March 7, 2022) Peter Whoriskey, *The Washington Post*.

But it was not breaking news this spring. “... It’s long been an open secret that, since the fall of the Soviet Union in 1989, the top Russian oligarchs have been sprinkling donations throughout the charitable sector, mostly in the United States, the U.K., and Europe ....”

According to experts long concerned with this infiltration, “too many charitable institutions were falling short in their oversight responsibilities” over many years. What’s different right now is that we are all suddenly paying close attention because of the clear and present danger that Russia presents to the West. “Charitable institutions and elites are rushing to disengage and to cut ties altogether ....”

- ***Rage Giving On Steroids (June 27, 2022)***

We didn’t first learn the term “rage giving” in 2022. “It’s been about five years since [this] phenomenon entered the public consciousness and discourse in America.... ‘While anger may have driven some donations over the past decades,’ the concept as a movement in philanthropy is generally understood to have gotten its start around the time of the 2016 election cycle.”

We’ve written about it several times since then – see [here](#), [here](#), and [here](#) – focusing mostly on the practical issues that arise from anger-fueled donor generosity to organizations, many of which “previously struggled for bare-bones support.” For many of the donees, there were serious

difficulties in rapidly scaling up. They needed extra space, equipment, and personnel to meet the beneficiary needs being funded by the rage donations. “Money falling out of the sky does not always come free of charge; there are predictable pitfalls and complications.”

In June 2022, though, a series of Supreme Court rulings – (including, most notably, *Dobbs*, overruling *Roe v. Wade*) – sparked “... a perceptible shift in the mood and the conversation about ‘rage philanthropy.’” They landed “like a body blow for many Americans and across a large swath of the philanthropic sector.... Something more [was] afoot than” calls for “garden-variety ‘rage giving’.”

This is a “newer paradigm of ‘rage-giving-on-steroids.’” And since it’s so new, “there’s much less information and analysis on rage philanthropy than for the more standard charitable money-raising models.” That’s now beginning to change. We included links to some of the most recent thinking (available through the late June date of our post.)

- **[It’s Going To Be A Bumpy Ride Until Election Day \(July 18, 2022\)](#)**

“In the United States, it’s no exaggeration to say that a new campaign season begins the morning after the polls have closed on the last one. For the nation’s 501(c)(3) organizations, that means steering clear of the Johnson Amendment from one election day to the next.”

By the time the *Dobbs* decision dropped, the November 2022 midterms were well underway. There was a consensus almost immediately that the Supreme Court’s ruling was a bombshell that would invariably entice many 501(c)(3)s into the election fray.

In this mid-July post, we included the latest, updated guidance from sources including [Bolder Advocacy](#) and the [National Council of Nonprofits](#) on how to make it to the end of this election-cycle’s ever-more-treacherous compliance journey.

- **[Nonprofits & Unions: A Fall 2022 Update \(September 22, 2022\)](#)**
- **[Nonprofit-Sector Labor Relations: A Crossroads \(October 6, 2022\)](#)**
- **[Nonprofit-Sector Labor Relations: The Path Forward \(October 11, 2022\)](#)**

At the height of the pandemic in the fall of 2020, we wrote about an intriguing labor-market anomaly in the nonprofit sector. [Nonprofits: Unions & The Pandemic](#) (November 19, 2020).

After a few hundred years of showing little interest in union organizing, or success at it, the workers at rank-and-file tax-exempt organizations – (that is, other than the big healthcare or educational institutions, which had already been unionized) – suddenly wanted to try it out.

“During the pandemic, workers at many nonprofits were also called upon to come to work, despite health risks, to meet the dramatically increased needs of the communities they serve. In many cases, already simmering – (that is, pre-pandemic) – tensions and resentment about inadequate compensation and other conditions of their employment were set aside temporarily. But it was inevitable that this simmering anger would boil over eventually.”

So the push for unionization at America’s nonprofits continued through 2021, and accelerated in 2022. That’s where we began [this Fall 2022 update](#) on nonprofit-sector labor relations.

The labor-relations landscape has also changed since the height of the pandemic because, as of January 20, 2021, a new pro-labor Administration in Washington, D.C. has come into power.

But it hasn't been an easy path forward. "...[D]espite the burst in union-organizing activities by nonprofit workers, it's not always easy to navigate the pathway from initial efforts through to the eventual negotiation of a contract acceptable to both sides."

More particularly, "... few internal topics create as much discomfort as whether an organization should unionize.... Sometimes the reaction is downright hostile...." Among the prominent examples we discussed at length was the contentious labor dispute at the Philadelphia Art Museum. An ugly strike went on for a few weeks. It was settled just in time to replace angry picketers with happy World Series fans on the famous "Rocky" steps.

In the second entry in this labor-relations series, we presented the fundamental choices: "The story of the nascent labor movement in the U.S. nonprofit sector is yet to be written. It can be a tale of taking the high road, exemplifying the best principles of philanthropy and the 'moral imperative' of honoring 'workers' rights and dignity' as well as complying with both the letter and spirit of the law. Or it can be a sorry and unnecessary duplication of the type of strife so frequently seen in the for-profit world. We're at a crossroads."

In the final post of the series, we included a reference guide to online resources explaining the rights and responsibilities of employers, workers, and labor organizations under federal law. We also provided an overview of the "growing body of opinion urging taking the high road in philanthropy labor-management relations in the upcoming weeks, months, and years."

### ***Conclusion***

As a reminder, the first two posts in this year-end retrospective are:

- [\*Favorite Posts of 2022, Part One\*](#) (January 2, 2023) and
- [\*2022 FPLG Favorite Posts: Part Two\*](#) (January 5, 2023)

We look forward to a productive 2023 of continuing these important conversations with you.

– *Linda J. Rosenthal, J.D., FPLG Information & Research Director*