

Hot Issues for Nonprofits in 2019

03.20.19 | Linda J. Rosenthal, JD



In the philanthropy sector – as in every other – the start of a new year marks an avalanche of fortune-telling: which issues that were big in the past year will continue to dominate news and commentary and which sleeper topics will erupt onto center stage. As part of our [dedication to the sector](#), we've dug into them all.

Some of the prognosticating appears in published articles and blog posts. Some of it also pops up in long, thoughtful threads on Twitter among academics; we in the non-professor-lurker class benefit from those impromptu conversations.

What's in store for nonprofits? A consensus emerges as certain issues show up on most of these lists. On one point, there is almost universal agreement: 2018 was a "[tumultuous](#)" year for our sector; 2019 is likely to continue on that roller-coaster path.

Our list highlights just a few (and in no particular order) of the most commonly cited items that we wrote about in 2018 and are likely to continue discussing this year.

Donor-Advised Funds

Donor-advised funds have been around for decades, but they exploded in popularity after large commercial firms jumped in with aggressive marketing. Particularly in the last decade or so, this hybrid model became the charitable-giving vehicle of choice for the wealthy in the United States because it offers benefits not available in the private foundation format. Most folks are surprised to learn that the nation's largest charity is not United Way or The Salvation Army. It's the Fidelity Charitable Gift Fund, the biggest donor-advised fund in the U.S.

DAFs have been especially attractive to tech-entrepreneurs-turned-billionaires, some of whom used the Silicon Valley Community Foundation as DAF of choice. While there were critics of the DAF model well before SVCF imploded in April 2018, that crisis was the catalyst for ripping off the shutters and

letting much-needed sunlight on the matter. Our series about SVCF, some of which includes discussion of that organization's reliance on the DAF model, begins with [Secrets and Lies at Silicon Valley Community Foundation](#) (July 24, 2018) and continues [here](#), [here](#), and [here](#).

In the months following that scandal, and continuing to the present, there's been a continual stream of commentary and chatter on the subject. See, for instance, [There's A Target On Charity's Booming Donor-Advised Funds](#) (August 2, 2018) and [Why DAFs Pose Big Problems for Nonprofits and Social Progress](#) (November 26, 2018) – just two of the many published commentaries about this issue. There's been speculation that the recent big move by Elon Musk into the DAF pool may well be the trigger for government regulators to seriously consider some rules and restrictions. *[Update: CA legislators are taking up this issue in the current session. See [here](#).]*

Crowdfunding

"It seems like a perfect marriage: the internet and charitable fundraising." We wrote that 2-½ years ago in [Crowdfunding: What California Charities Should Know](#) (July 21, 2016). This "lightning speed way to pitch alerts about causes – often in times of emergency" became a phenomenon a few years and shows no signs at all of slowing down.

It's been dramatically successful in many instances including cases we highlighted: [Sweet Briar College in Virginia](#), and the [Girl Scouts of Western Washington](#).

But we cautioned back then: "...as in the case of any hasty union, it's wise to slow down just a bit, get directions, and avoid driving off in the dark and over a cliff."

By last year, as we wrote in [CA Considers a Charity Crowdfunding Bill](#) (June 28, 2018), there were concerns and calls for some amount of government regulation and guidance. Of course, there are laws already on the books around the nation because crowdfunding is "[plain and simple – fundraising](#)." Notwithstanding the sometimes *ad hoc* nature of these appeals, they are "charitable solicitations" and charity regulators – at all levels of government – take an interest in charitable solicitations and solicitors."

In last year's California legislature, the issue was raised and a proposed crowdfunding bill was introduced. Interested stakeholders, lawmakers, and regulators [worked together](#) to create a regulatory atmosphere in which these online donations could flourish, donors and charitable beneficiaries are protected, and existing principles of charitable-solicitation regulation and oversight are maintained.

It was a good effort, but – as written – fell short of these goals. So it's back to the drawing board for another try in this year's session; see [Crowdfunding Regulation in CA: What's Next?](#) (January 18, 2019) In the meantime, in an [Open Letter to Crowdfunding Companies](#), dated November 16, 2018, CalNonprofits asks for cooperation and dialogue in light of certain "concerns" about "the easy access for scam artists purporting to be legitimate nonprofits, undisclosed fees, uncertainty about tax-deductibility, and slow fund disbursement to nonprofits, among many others." This leading association of nonprofits points to its *Principles for Responsible Crowdfunding* which it hopes will "serve as a guide for policymakers in the Golden State, and help set the standard as the rest of the states take their own look at this evolving field." *[Update: CA legislators are taking up this issue in*

the current session. See [here](#).]

Cryptocurrencies

In early April 2018, we posted [Bitcoin and More: The New World of Donations](#). Cryptocurrencies were introduced just a decade ago, but by 2017, it became all the rage. Donors want to get into the game by making charitable donations of cryptocurrencies. Organizations want to know more about this new funding avenue so they are not passed over as wealthy people choose this method for their contributions. This new technology certainly “has some **notable benefits** including quicker processing, lower fees, and easier access to international donors.”

On January 29, 2019, we posted [Second Thoughts About Cryptocurrency Donations?](#) “By the fall of 2018, experts and observers were ready to take a second look at the cryptocurrency craze and evaluate it anew from the perspective of donee organizations, donors, and philanthropy generally.”

The great [Bitcoin Crash of 2018](#) showed that there are serious downsides to this untested market. That **volatility continues**, there **are lawsuits**, and the government looks **ready to step in** for some much-needed regulation.”

There are also unanswered questions and uncertainties about how to successfully claim the touted tax benefits. We ended that post with the famous Betty Davis line from *All About Eve*: “**Fasten your seatbelts, it’s going to be a bumpy ride.**”

Conclusion

These are just a few of the issues we expect will be newsworthy for the charitable community in 2019. There are others, of course, including volatility in government funding, wealth inequality and the role of billionaires in the future and direction of philanthropy, and the (hopefully) continued erosion of the Overhead Myth – just to name a few.