May 5, 2020

The Honorable Mark Stone
Chair, Assembly Judiciary Committee
State Capitol
Sacramento, CA 65814

Dear Chair Stone:

On behalf of the Alliance for Charitable Reform and The Philanthropy Roundtable, I write to encourage you and the members of your committee to include language in AB 2936 to protect donor privacy. Given the wide scope of discretion this bill would vest to the Attorney General to regulate donor-advised funds (DAFs), public policy would be well served by safeguarding the privacy rights of donors.

The Philanthropy Roundtable is America’s leading network of charitable donors working to foster excellence in philanthropy and protect philanthropic freedom. Our 660 members include individual philanthropists, family foundations, and community foundations located in California and around the country. The Alliance for Charitable Reform is the public policy arm of the Roundtable working to protect philanthropic freedom.

Anonymous giving to charity has roots that are not just deeply embedded in America’s philanthropic community, but that extend back at least two millennia.\(^1\) Many faiths strongly encourage anonymous giving – some Jewish philanthropists, for example, follow the teachings of the 12th-Century rabbi and scholar Maimonides, who wrote that the second and third highest forms of giving (of eight categories) required the donor to give anonymously.\(^2\) Christianity,\(^3\) Islam\(^4\) and Hinduism\(^5\) also favor anonymous charitable giving.

---

\(^1\) The first century Roman senator and philosopher Seneca the Younger wrote in his treatise on gifts and favors “How sweet, how precious is a gift, when he who gives does not permit himself to be thanked,” and “…[A]ll writers on ethical philosophy tell us that some benefits ought to be given in secret…” Lucius Annaeus Seneca (translation by Aubrey Stewart), \textit{De Beneficiis} (On Benefits), p. 33, publisher unknown, circa 1900.


\(^3\) The book of Matthew in the Bible quotes Jesus telling his followers to “Take heed that you do not do your charitable deeds before men.” Gospel of Matthew 6:1 and 6:3, New King James Version of the Holy Bible


Many philanthropists prefer to give anonymously in order to avoid being inundated with unwanted solicitations, such as George Eastman, founder of Eastman-Kodak. After being revealed in 1920 as the source of an earlier $10 million anonymous gift to MIT, *The New York Times* noted that Eastman “had abundant occasion to regret that his identity is no longer a secret… he has become quite aware of the perils beset the paths of those pursued by the advocates of endless ‘worthy causes.’”

Others prefer that attention be focused on the good work done by the charities they support rather than themselves, such as the late pop singer George Michael. His generous support for causes including aid to cancer patients and helping abused children was kept anonymous in large part for this reason. And some philanthropists simply prefer to avoid the public spotlight out of a sense of modesty.

Another reason donors to charitable organizations sometimes prefer anonymity is because they are concerned about triggering retaliation if they give to causes and organizations that are considered controversial by groups with powerful advocacy or political interests.

It was because of this concern that in 1958 the U.S. Supreme Court ruled that the State of Alabama could not force the NAACP to reveal its members and donors because doing so would infringe on core First Amendment rights by exposing them to “economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility…”

Donor-advised funds are an important philanthropic tool that allow donors to maintain their privacy, and whatever a donor’s reason is to keep their giving out of the spotlight, it is important to protect that privacy.

As you and your colleagues consider legislation to regulate DAFs, I ask that you keep in mind the important role anonymous charitable giving has played throughout history and ensure that philanthropists can continue to keep their giving private if they chose.

I am happy to answer any questions or respond to any concerns you may have about this issue, please feel free to contact me at sswirski@urbanswirski.com or (202) 469-3166

Sincerely,

Sandra Swirski
Executive Director
Alliance for Charitable Reform

---


8 *NAACP v. Alabama*, 357 U.S. 462 (1958), majority opinion of Justice John Harlan